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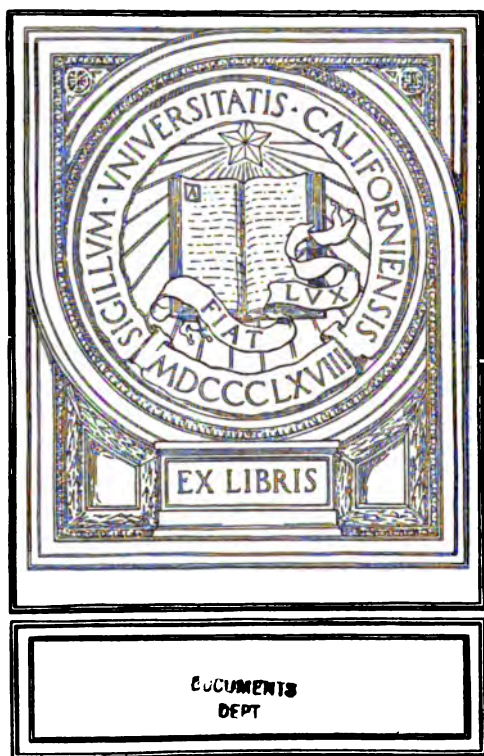
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STATE OF NEW YORK

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PROCEEDINGS

OF THE

JUDICIARY COMMITTEE

OF THE

ASSEMBLY

IN THE MATTER OF THE INVESTIGATION BY THE ASSEMBLY OF  
THE STATE OF NEW YORK AS TO THE QUALIFICATIONS OF  
LOUIS WALDMAN, AUGUST CLAESSENS, SAMUEL  
A. DeWITT, SAMUEL ORR AND CHARLES  
SOLOMON, TO RETAIN THEIR SEATS  
IN SAID BODY

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VOLUME III



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OF THE  
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## STATE OF NEW YORK — ASSEMBLY CHAMBER

**In the Matter of the Investigation by the Assembly of the State of New York as to the Qualifications of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to Retain Their Seats in Said Body.**

THE CAPITOL,

ALBANY, N. Y., *March 9, 1920.*

*Present:*

Hon. Louis M. Martin,  
 Hon. George H. Rowe,  
 Hon. James M. Lown,  
 Hon. Edmund B. Jenks,  
 Hon. Edward A. Everett,  
 Hon. William W. Pellet,  
 Hon. Edward J. Wilson,  
 Hon. Charles M. Harrington,  
 Hon. Harold E. Blodgett,  
 Hon. Theodore Stitt,  
 Hon. Louis A. Cu villier,  
 Hon. Maurice Bloch,  
 Hon. William S. Evans.

*Appearances:*

For the Judiciary Committee:  
 Charles D. Newton,  
 John B. Stanchfield,  
 Arthur E. Sutherland,  
 Elon R. Brown,  
 Martin Conboy,  
 Samuel E. Berger,  
 Archibald E. Stevenson,  
 Henry F. Wolff.

For the Socialist:  
 Morris Hillquit,  
 Seymour Stedman,  
 S. John Block,  
 Gilbert E. Roe,  
 William Karlin,  
 Walter Nelles.

---

HON. LOUIS M. MARTIN, Chairman.

(The Committee met pursuant to adjournment at 10:50 A. M.)

The Chairman.—Proceed.

Mr. Roe.—Mr. Chairman, and gentlemen of the Committee, I do not arise at this time to discuss this case at all, but there is a request which I desire to place before the Committee, perhaps more properly a motion which I desire to address to the Committee, which it was decided by counsel for the Assemblymen before we separated last week should at this time be done. It is not only a proper motion to make, but one which it is our duty to make. It involves the matter of allowances on behalf of the Assemblymen for expenses in this proceeding.

There are two grounds upon which I desire to submit this suggestion or motion to the Committee:

In the first place, these five Assemblymen are the sitting members. They have been called in here to defend their rights to their seats. Their rights to their seats have been challenged and they are called upon to defend them. They are called upon to do that in behalf of their constituents and in behalf of the public interest as well as themselves. The rule, I think, is universal that wherever the sitting member's right to his seat is challenged in a parliamentary body and a contest with regard to that right is inaugurated and conducted, he is entitled to his expenses in that proceeding whatever the decision of the body may be as to his right to a seat.

In the second place, while this proceeding is in form an investigation it is in fact a prosecution or a trial. You understand

I don't say that at all in the way of criticism or complaint. It was probably inevitable that the proceedings should take that form. If this were merely an investigation of course it would be the duty of the party presenting evidence to present both sides of the case, present all the facts bearing upon the issue so that the Committee might have all the facts before it in arriving at its determination. As we all of us know in this case that has not been the procedure adopted. The prosecution, or the attorneys appearing for the ouster of these Assemblymen, have presented their evidence for the same purpose that they would have presented it had there been a trial in court. Where a document has been introduced they have introduced so much of the document as they felt aided their contentions and have left it to us to introduce the balance either to explain away what they had introduced, if we could, or to meet their proof in other ways. The same rule has been followed with regard to oral evidence. The result has been, I think, that the counsel for the Socialists here and the Socialists themselves have given this Committee quite as much aid in spreading before it all the facts as has been afforded by counsel on the other side.

This proceeding would have been very partial and one-sided if the Socialists and their counsel had not pursued that course. So that since the purpose of this proceeding is to arrive at the truth and ascertain the facts, the five Assemblymen and their counsel have aided the Committee exactly as much as the prosecution, certainly, they have been diligent in trying to present the facts within their control bearing upon their contention and upon their point of view, just as the other side has been diligent in presenting facts bearing upon its contention and its point of view. It seems to me the two sides stand upon an equality so far as asking for reimbursement of the necessary expenses are concerned. My request or motion, therefore, is that this honorable Committee, when it shall report to the Assembly, shall, as a part of that report, or in connection with it, make a recommendation that the expenses of the five Assemblymen for counsel fees and any other necessary expenses be provided for exactly the same as I understand the expenses of the other side will be provided for.

Attorney-General Newton.— Mr. Chairman, so far as my representation of the Committee, and my duty as Attorney-General is concerned, I have no concern with the suggestion made by

counsel. Whether it is deemed proper to at any time consider the request made or not is one for the judgment of the Assembly.

I make this suggestion as it is not a matter for this Committee to determine the expense at all, or make any recommendation as to whether counsel should or should not be paid, employed on either side of this controversy. It is a matter which; if I understand legislative procedure, is presented by a bill purposely drawn to meet the condition when it arises; and I am frank to say that, so far as I am concerned, I have no wish to express either way except that justice be done in the matter; but I do not think it is a proper subject for recommendation of this Committee. It is a question for the judgment of the House when the proper time comes and when the question is presented by proper legislation.

Mr. Roe.—If I may say just a word, your Honor. I think that we agree entirely as to the procedure. My purpose in making this suggestion was that it might be made upon the record and be considered by the Committee and members individually, and also to call it to the attention of the Assembly. I think, however, that it would be entirely proper for the Committee, in its report, to state for the benefit of the Assembly the character of the services rendered on either side, and as to whether those services had been beneficial and of aid to the Committee in arriving at its conclusion.

I quite understand that the action would be taken in the case of the expenses of the Assemblymen as in the case of the attorneys on the other side, by some action of the Assembly itself. I may say that the reason I make this suggestion at this time rather than later in the day,—it properly would come at the conclusion of the case I think,—is that I may not be able to be here throughout the argument to-day.

There is one other matter I wish to suggest. In going over the record I find that there are a good many errors in the record, which is inseparable from getting a record out as rapidly as has been done in this case. I think the service we have had has been most excellent, quite remarkable, but it is inevitable that there have been a good many errors, some of some importance, which have crept into the record. I would suggest, if it is agreeable to the Committee and counsel on the other side, that each side have permission to file and submit as a part of the record a sort of

addenda pointing out the errors in the record and indicating what the corrections should be.

The Chairman.—That may be done. The question of allowances we will take up in the Committee.

Mr. Roe.—One other thing perhaps I should speak of at this time, the O'Hara record which, I think, has been introduced here, was the personal property of Mr. Nelles. We need that for use to-day. If it could be returned to me or Mr. Nelles temporarily and then when we are through with it it will be turned over to the Committee.

It is a matter of some disappointment of counsel for the five Socialists that we haven't our brief ready to submit to-day, but it will be ready within a day or two. It is practically completed and we regard that as a part of our labor in this case, just as it was to try and present the evidence in the case and that will be placed at the service of the Committee.

Mr. Brown.—Mr. Chairman and Gentlemen of the Committee. We meet under very exceptional conditions.

The conduct of this trial in this chamber is itself significant of the importance of the issues involved. It has been said to be a trial. It is a trial, but the parties to it are not the parties of the record. It is not a trial between the five Assemblymen and the Assembly of the State. It is a trial between five Assemblymen and the people of the State as to their right to represent the people in this sovereign body.

The importance of the issue is great, because it involves a procedure and determination on the part of the Assembly as to the right of men who are citizens to sit in this body,—a very unusual proceeding. The right has been conceded for hundreds of years—for a hundred years—since the establishment of the State—yes, hundreds of years if you go back into the colony. And to deny that right there must be a very exceptional condition, and investigation and determination of the question as to whether the right ordinarily accorded should be denied, and that matter is one of great importance.

The Assembly itself, in common with the people of the whole State, are jealous of an exception to a general beneficial rule, and you have, therefore, given to the investigation of the issues seven or eight long weeks of inquiry; every opportunity to

every interest to be fully heard; every opportunity for the people and the press of the State to consider the issues, so that no — no serious mistake — should be committed. It is impossible upon the other hand, to the people of the State that there should be no one sitting in this Assembly who is in hostility to the institutions of his country, who desires to occupy a seat here for the purpose of undermining and destroying constitutional government. It is important that a rule should be laid down, now that a party has arisen, or what claims to be a party, and organized for the purposes for which the Socialist party is organized, that whether or not, now and hereafter, the members of that party are competent, under the Constitution, to sit here and perform the high duties which are devolved upon this sovereign body of the State.

The duty which is cast upon you is unwelcome. It was created by the Assembly itself. It was created by the resolutions and declarations and positions of the five Assemblymen of your party. You are not sitting here as willing investigators of a willing court. You have taken your oaths to support the Constitution and the laws of the State. You have an express obligation — an implied obligation — over and beyond that, to give what is in you for the protection of the State, for the protection of the body which you constitute. And having that duty devolved upon you, you have no alternative except to pass upon and decide this issue.

Now, these questions are of such an exceptional nature that they were but little understood at the opening of this proceeding. They were but little understood by counsel. They were but little understood by the members of the Legislature, and they were less understood by the people of the State, because such a situation never arose before, and we have not, in recent years, been engaged either in the analysis or development of representative government.

We have taken what we had, and been contented with it, and have not been given to considering the problems and difficulties that might arise from a situation of this kind.

Not understanding it, a great many people, without any consideration of it, were given to forming impressions based upon law, not upon the Constitution, not upon precedent, but upon their impression of what, under the circumstances, they would do, giving expression to that impression without any consideration of the real facts in the case.

It was, therefore, inevitable that there should be a great deal of misunderstanding; that there should be conflict of opinion, and it becomes your duty, gentlemen, to see to it, in the decision of this case, that every step that you take is not only justified by precedent, but that it is justified in reason and demanded by the public welfare.

I shall, therefore, take pains this morning, at some length, to refer to the history of the treatment of cases of this character, with a view to seeing whether or not we are upon the right road, and if we are upon the right road we can then go upon our journey and consider the various questions involved. If the proceeding were not justifiable it would be your duty to dismiss it, and I should be the first to ask that you do so. I deny that I or my associates are here merely in the light of paid counsel for the sake of conducting an issue or a prosecution. We are here to aid the Committee in getting the truth, with the obligation resting upon us heavily as requested to act as your counsel to give you no advice which is inconsistent with the interest of the State, the rights of the people, the preservation of our government and of its institutions.

I dread to take up with you and follow the precedents upon this subject. It would be more interesting for me to speak to you generally about it, but it is a matter of such vital importance, it is so essential that you should form a just judgment upon it; it will carry weight not only in the judgment of this case, but it will carry weight in the history of the State; it will carry weight in other States; it will be the basis of action not only in this judgment but in other judgments, that it is of the first importance that your actions should be along right lines. I, therefore, have no alternative except to speak to you with the utmost precision and accuracy of which I am capable. I am not going to be as exhaustive upon the subject as I might be, but I will refer you to the sources of information if you desire to pursue the study further.

Taking up this question of the right of the Assembly to challenge the right of these five men to their seats in the Assembly, I make bold to say, notwithstanding the care with which I invite you to give it attention, that the processes and procedure adopted here are sustained by overwhelming authority.

The Assemblymen are State officers and are so defined in the Constitution and in the Public Officers Law. They are officers

of the State. You are officers of the State, not of your districts. To my surprise, when this case first opened, I found there was a considerable confusion of thought upon this subject, and the idea seemed to prevail that these five Assemblymen were the officers of their several districts. Prior to 1848, Assemblymen were not chosen by districts,—they were chosen by counties, and it would be entirely proper, if the State saw fit to do so, that they be chosen as Senators were chosen prior to 1848, where a block of Senators were awarded to certain districts covering many counties. You started with the choice of Assemblymen from counties, and there would be seven or eight or ten Assemblymen elected by the county at large.

In 1848, it was felt that it would bring Assemblymen closer home to their constituencies to give them individual districts, and the change was made.

Burke said in his address to the electors at Bristol:

“Parliament is not a congress of ambassadors from different and hostile interests, which interest each must maintain as an agent and advocate against other agents and advocates; but Parliament is a deliberate assembly of one nation with one interest, that of the whole, where not local purposes, not local prejudice ought to guide, but the general good, resulting from general reason of the whole.”

Your oath is not taken to serve your districts, but to serve the State, being chosen as an officer of the State and sworn to serve and protect it, as well as to serve and protect the nation of which the State is an integral part, and it is a fundamental and basic proposition that whoever stands at the threshold of this chamber seeking admission for the purpose of destroying it and overthrowing it must be barred at the door.

When an Assemblyman appears at this bar, or at the office of the Secretary of State, he seeks to become an officer of the whole State. He does not appear as a representative of his district. His representation of his district is incidental, and he might have his seat in this body if, under the Constitution as amended, he was elected at large, as Congressmen-at-large are frequently elected.

Now, it is my duty to take up and discuss with you in some detail the various cases or precedents that have arisen where the question was involved. You are not entirely unfamiliar with

them, but the argument could not be well brought home without taking it as a whole, and at the risk of some repetition of what has been laid before the Committee, I will take up a few of these cases.

I will take up first the case of Brigham H. Roberts. Roberts was elected from Utah. He appeared at the Bar of the House of Representatives as a Representative from Utah, seeking to be sworn and to take his seat as a representative of that State. A motion was made by a member of the House, when he appeared to take his seat — and I may say to you that the custom there is that if such a motion is to be made, to ask the member as to whom it is to be made to stand aside when the members of the House of Representatives are sworn in; and he stands aside until the others are sworn in and then asks that he be permitted to take the oath, when, if objection is made, a motion is made by some member that he be not permitted to take the oath or to take his seat until the report of a committee as to his eligibility shall have been made to the House, and when that report is made, if it is favorable, he is sworn in and takes his seat; and if it is unfavorable, the seat is declared vacant by the House.

The charge made against Roberts was that he was in open war against the laws and institutions of his country, whose Congress he sought to enter. It is upon these grounds that all cases of exclusion have been based; that is, Brigham H. Roberts, appearing as a representative-elect from the State of Utah, was charged with being disloyal to his country, or, "in open war against the laws and institutions of his country," because he was a polygamist and governing member of the Mormon Church, and that in this status and respect he was a violator, and an open violator, of the laws of the United States.

The question was investigated by the House of Representatives, and it was determined that he was ineligible, and a resolution was passed excluding him from his seat; that is, preventing him from taking the oath or taking his seat.

I shall have to go farther back because, fortunately, affairs usually in this country are so ordered that disloyal men — men living in open opposition and antagonism to the laws of the United States — do not commonly appear at the threshold of our great legislative bodies. I shall have to go farther back. I will start with the case of Benjamin Stark, a Senator-elect from

the State of Oregon, in 1862. These cases arose principally because of the disloyalty of a large section of the Union in the war of 1861-1865. He presented himself to the Senate and asked to take the oath. A motion was made that it be not administered, on the ground that he was disloyal.

The same contention was made in this case as was made in the case of the five Assemblymen, that having been chosen, elected, he must take his seat, be permitted to take his seat, whether loyal or disloyal and it could be corrected afterwards and not before. And in the discussion of this question in the Senate, which was determined adversely to Mr. Stark, several important pronouncements were made which have served as precedents from that day in all other cases that have arisen in the national Congress and so far as I know in most cases throughout the Union, nothing to my knowledge having been declared contrary by authority. Senator Howe said, "to admit a claimant charged with disloyalty to a seat in the Senate in the hope of expelling him afterwards is a voluntary abandonment of the right of self-defense which belongs to the Senate as much as to any individual." The right of self-defense. "If a man be disloyal you are not compelled to permit him to take a seat in this body and then contend with him in casting the votes of the Assembly as to whether or not he shall maintain his seat." Senator Sumner said:

"I desire, Mr. President, to make one single remark. It is said that the proposition now before the Senate is without a precedent. Now, new occasions teach new duties. New precedents are to be made when the occasion requires. Never before in the history of our government has any person appeared to take a seat in this body whose previous conduct and declarations, as presented to the attention of the Senate, gave reasonable ground to distrust his loyalty." Reasonable ground to distrust his loyalty. "That case, sir, is without a precedent. It belongs therefore to the Senate to make a precedent in order to deal with an unprecedented case. The Senate is at this moment engaged in considering the loyalty of certain members of this body and it seems to me it would poorly do its duty if it admitted one as a member, one who when he came forward to take the oath there was a reasonable suspicion against."

Of course the necessity of self-defense is greater at some times than it is at others. The necessity of asserting the right of self-defense by a legislative body in the trying times of the

great rebellion was greater than in piping times of peace. The course adopted by the Socialist party toward the late war gives unusual importance to the present case. If it had not been for the war and the development and consequences of the war this case would never have arisen. The counsel for the defense are right in that respect. But because the occasion is different and the necessity is greater doesn't result in the conclusion that the right could not or ought not be exercised at other times. It is because the duty then becomes plain in the light of conditions which is only seen dimly when everything is moving along slowly, easily and peacefully.

Now, another case. In the case of Mr. Bright, also expelled from the United States Senate in 1862 for writing a letter to Jefferson Davis, it was agreed by the majority of the Senators that he was not guilty of treason, but he was expelled nevertheless for a disloyal act.

Senator Sumner in this case said:

"Under the Constitution, the Senate in a case like the present, is the absolute judge, free to exercise its power according to its own enlightened discretion. It may justly declare a Senator unworthy of a seat in this body on evidence defective in form, or on evidence even which does not constitute positive crime. It is obvious that the Senate may act on any evidence which shall be satisfactory to show that one of its members is unworthy of his seat without bringing it to the test of any rules of law. It is true that the good name of the individual is in question; but so also is the good name of the Senate, not forgetting also the welfare of the country; if there are generous presumptions of personal innocence, so also are there irresistible instincts of self-defense which compel us to act vigorously, not only to preserve the good name of the Senate, but also to preserve the country."

And Senator Davis said:

"There is no law which defines any particular class of offenses that shall be sufficient to expel a Senator from his seat. The common law does not. There is no statute law that does. There are no rules of evidence establishing technical rules of testimony that are to guide and control and govern this body in getting its lights and reaching its con-

clusions when a Senator is thus on trial. The general rule and principle of law and of reason and common sense is that whatever disqualifies a member of the Senate for the proper discharge of his duties, whatever it may be, is sufficient and ought to be held sufficient, for his expulsion, a whatever evidence satisfies the mind reasonably and according to moral certainty and truth of the existence of that cause is sufficient evidence without resorting to the technical rule of testimony upon which to convict him."

And Senator MacDougall said:

"It is no question of law. We have not asked whether the Senator from Indiana is guilty or not guilty. We have to judge him by our best judgment, and by that we try him and we may say yea or nay, as we think, whether he be a true man or not to sit in the Federal councils to conduct the affairs of the United States."

I have cited a very interesting case which I will not read to you, arising as early as 1619, in the House of Burgesses in Virginia, where two delegates appeared, when under the terms of the patent of which they were occupants, they were not bound by certain laws of the colony of Virginia. Their case was taken up and they were denied seats although elected under the laws of the colony, because not submitting to the laws of the colony, saying in the language of that day, "otherwise they were utterly to be excluded, as being spies, rather than loyal burgesses; because they had offered themselves to be assistant at the making of the laws which both themselves and those whom they represented might choose whether they would obey or not."

No case is cited in the parliamentary history of this or any other government in conflict with these cases, unless it be a case arising in this Assembly, to which I shall later direct attention.

The discussion of the power of the legislative body to exclude members commences with offenses of a lower degree than disloyalty, and the point so far as it affects this case arises from the report of the sub-committee of the Judiciary Committee of the Assembly in 1918.

The case of Decker: Decker became a member of the National Guard on October 30, 1911, and served until October 30, 1914 as a sergeant in active service. On October 30, 1916, after ha

ing served on the Mexican border, he was transferred to the reserves, and remained on the reserve list until July 14, 1917, when he was called into active service. On July 19, 1917, he was examined by the surgeon of the United States army, and on the 24th of July, discharged on a surgeon's certificate of disability arising from impaired eyesight. In September of that year he was nominated as a member of Assembly, and was elected at the general election.

On the 9th of November, 1917, Decker was married, and on the 23d of November, 1917, he was registered for the purpose of the draft under the Selective Draft Law of the United States. This law went into effect May 18, 1917, and Decker would have been subject to its provisions except for his being a member of the National Guard of the State of New York. He remained exempt until the time of his discharge from the National Guard on July 24, 1917, for disability. Upon his discharge he became subject to the law, automatically, and it was his duty immediately to register thereunder pursuant to the law and the rules and regulations of the War Department issued thereunder.

He consulted with the captain of his company as to whether it was his duty to register, and was informed by him that he did not know, and was directed to consult members of the local board. He thereafter consulted a board in the neighborhood which was not the registration board with which he should register, and did not register for military draft until the 23d of November, 1917, when he answered the question: "Do you claim exemption from draft. Specify grounds," that he did claim such exemption on the ground that he was a State officer and married. He first stated that he did not claim the exemption, but afterwards changed and claimed it and filled out the card, clearly placing himself in the exempt class on the ground of dependency. The charge against him was that he had evaded the draft by misrepresentation, in that he was not a State officer prior to January 1, 1918.

The Committee reported that inasmuch as his action in relation to the draft was a matter of public record during the time that Decker was a candidate for office, they could not recommend his dismissal from the Assembly on the ground of misrepresentation, and added the following general statement of principle as applicable to the case:

"Your sub-committee held that in order to remove a member of the Assembly from office under the Constitution that

some question involving the election or the returns is necessary before the Assembly has jurisdiction in the premises or further that a person so elected must be entirely qualified under the Constitution, or by his conduct in House must disqualify him. These regulations are specially set forth in the Constitution itself, and there is no evidence before us that any of them are lacking as far as respondent in this proceeding is concerned."

It should be noted in this case that not only was no question of loyalty involved, but Decker was discharged from the National Guard in the preceding July after honorable service in the active war forces of the United States. While his conduct in relation to registration and claiming exemption on account of being an officer of the State of New York was not exempted, there was room for doubt on the part of the Committee as to whether he was being actuated by a dishonorable purpose. The statement of Decker as an Assemblyman-elect after his election and before his term of office begins that he is a State officer, involves an error which others might commit.

The fact too that he had been discharged for physical disability undoubtedly contributed in the minds of the Committee to their conclusion that he was not purposely evading the duty to which he could not be subject by reason of his physical qualification. But considering the statement of the general rule laid down by the committee, it must be said that as to facts in cases not analogous to the case considered by the Committee that the rule laid down was obiter dictum. The Committee decided independently of the statement of this rule that it would not disqualify Decker because it would not find that he was guilty of any misrepresentation, and that was the only charge presented against him. It must be further said that the rule as stated by the Committee is ambiguous in that it says that a person "so elected must (to be denied admission to the Assembly) be entirely disqualified under the Constitution." Whether this language was intended to cover disloyalty naturally does not appear in the discussion of a case like Decker's. If the language used is not broad enough to cover the case of disloyalty, the statement of the Committee was not in this particular well considered, as appears from the cases already discussed.

An attempt has been made to support the Decker case by reference to the Smoot case in the United States Senate, but

examination of that case shows that the committee of the Senate which reported in favor of unseating Smoot, and Senator Knox his principal champion on the floor, concurred in a contrary rule. The committee said:

“The constitution provides that each house shall be the judge of the elections, returns and qualifications of its own members. It is now well established by the decisions of the senate in a number of cases that in order to be a fit representative of a sovereign state of the union in the senate of the United States, one must be in all respects obedient to the constitution and laws of the United States and of the state from which he comes, and must be desirous of the welfare of the country and in hearty accord and sympathy with its government and its institutions.”

“If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation or its government, he is regarded as being unfit to perform the important and confidential duties of a senator, and may be deprived of his seat in the senate, although he may have done no act of which a court of justice could take cognizance.”

Now the distinction between the report of the committee and the action of the Senate rests solely in the question whether the charge against Smoot could be raised upon his appearing to take his oath when if he was rejected he would be rejected by a majority vote of the Senate, or whether he must under the constitution be permitted to take his seat and if he was not permitted to keep his seat, expelled by a two-thirds vote of the Senate under the provisions of the Federal Constitution. The ground of exclusion would be the same in either case. There was no question in relation to that. The question was solely in relation to the method of its application and the time of its application.

Senator Knox, who was the champion of Smoot and led the majority, stated the rule as follows:

“First — that the constitution undertakes to prescribe no moral or mental qualification, and in respect to such qualifications as it does prescribe, the senate by a majority vote, shall judge of their existence in each case, whether the question is raised before or after the senator has taken his seat.

“Second — that as to all matters affecting a man’s moral

or mental fitness, the states are to be the judges in the instance, subject however to the power of the senate to reverse their judgment by a two-thirds vote of expulsion when the offense or offensive status extends into the period of senatorial service."

It will be observed that while Senator Knox was not discussing the question of loyalty or disloyalty to the country, expressly reserved in discussing the Smoot case the right power of the Senate to expel a member when "an offense or offensive status extends into the period of senatorial service."

Disloyalty is such an offense and an offensive status of loyalty existing at the time of the election of a member extends into the period of service.

It was the cases of Roberts and Stark and Bright, that he had in mind when he laid down this rule. He was not in conflict with the majority report of the committee upon the cause of action, but he was in conflict with the committee upon the question when the right could be exercised under the peculiar provisions of the Constitution of the United States.

In Hinds precedents, it is stated (pp. 442-444):

"Whenever it is shown by proof that the claimant by act or speech given aid or countenance to the rebellion should not be permitted to take the oath, and such act or speech need not be such as to constitute treason technically but must be so overt and public, and must have been done or said under such circumstances as fairly to show that they were actually designed to and in their nature tended forward the cause of the rebellion."

The Smoot case is therefore no precedent for extending the ruling of the Decker case to a charge of disloyalty. But the principle was stated too broadly in the Decker case in that event, since the exercise of the power of expelling a member from a legislative body has been frequently exercised because of an offense committed before his election to office.

In the session of the State Senate of 1910, Senator Allds was tried upon the charge made by Senator Conger that in April 1900, while a member of the Assembly, he had accepted a bribe of one thousand dollars as a consideration for having refrained from pressing to passage a certain bill then pending

fore the Assembly. After a long trial, the proofs were in such a condition that before the Senate voted upon it, Senator Allds resigned, but after such resignation was announced the Senate voted in favor of sustaining the charge, 38 ayes to 8 noes. Distinguished counsel appeared for the Senate and Senator Allds. Being interrogated prior to the taking of the vote as to whether a vote sustaining the charges would in and of itself forfeit the office, the counsel for Senator Allds (Mr. Carr) replied:

"You ask me a question, if, upon your affirmative vote upon the resolution, whether it would ipso facto remove him from the office of Senator. I say no, but it would be the basis of action that it would be your duty to take if you discharged your duties as Senators to remove him from the place."

After that great trial, lasting for weeks, in which eminent counsel were engaged upon both sides, the counsel for the defense admitted that if the charge that he had taken a bribe of a thousand dollars eight or nine years before when serving in this body, instead of in the Senate, of which he was then a member, was established, it would be the duty of the Senate to expel him.

In the case of Governor Sulzer the burden of the charges rested upon acts committed before he took office, and the court of impeachment, consisting of the Senate and the members of the Court of Appeals, decided that they were properly the basis for impeachment, the vote being 39 to 18. This ruling — supported, as I recall it, by all but one member of the Court of Appeals — this ruling is fully sustained by the action of the National Congress in two notable cases.

One Whitmore, of South Carolina, was expelled from the House of Representatives for having sold Cadetships. He was re-elected by his district and immediately expelled for the original cause. (See page 169 of the Trial of John Barnard for impeachment.)

In the case of Victor Berger, recently decided by the House of Representatives, he was peremptorily thrown out after a second election on account of the offenses which had led to his rejection on his first election.

I will not take your time in discussing the power of suspension. The proposition that the power to expel from office and deprive a member completely of the privilege and rights ordinarily his

does not include the power to suspend involves such a contradiction and violation of logic that a discussion of it would involve a waste of time. It is an attempt to establish the proposition that the right to destroy does not carry with it the right to limit.

The right to suspend has been frequently exercised for mere breaches of etiquette of the higher sort; and it is invoked in the present case only on account of the difference in practice in the organization of the houses of the Legislature of the State and the Houses of Congress. There no member may take his seat until he has appeared at the bar and taken the oath of office. Here he may take the oath of office at the bar or he may subscribe to his oath in the office of the Secretary of State as soon as he receives his certificate of election. Jurisdiction is assumed in the Houses of Congress when a member elected appears at the bar to take his oath. Here jurisdiction is assumed upon the organization of the house to which the member is elected. No motions are made or tolerated according to the practice of the two houses of the Legislature, until there is a presiding officer and a clerk to keep the records. Those who wish to indulge in a refinement of the differences and distinctions of the two practices are at liberty to do so. They have no better foundation than the difference in the practices of Congress and of the Legislature under the Federal and State Constitutions. Under the former a member may be prevented from taking his oath and his seat by a majority vote, but can only be expelled by a two-thirds vote; while in the State a member may be prevented from taking his seat, or expelled, by a majority vote. The distinction, therefore, between the practice at Washington and the practice at Albany arises solely from the necessity of meeting the special provisions of the Federal Constitution, which are not found in the State Constitution. Is it conceivable that if a statute were enacted by a Congress of the United States, permitting a member elect to take his oath in the office of the Secretary of State, all of the rulings of the two houses as to the admissibility of such member would be dispensed with and that the question as to his eligibility to his seat could not be raised at the beginning of his service by reason of this change of form? It is the substitution of a shadow for a substance.

It was held in the 99th of New York that these powers were all vested in the houses of the Legislature without limitations. The courts stated the necessity of the powers and it is conceded in all of the authorities.

The Chairman.— They have unfortunately adjourned the House until 12 o'clock.

Mr. Brown.— Are you going over there?

Assemblyman Cuvillier.— This House convenes at 12 o'clock.

Mr. Brown.— I was so informed. Do you wish me to suspend now?

(Discussion off the record regarding adjournment.)

The Chairman.— We will take a recess until 2 o'clock.

Whereupon at 11:55 A. M., recess was taken until 2 P. M.

#### AFTER RECESS, 2:20 P. M.

The Chairman.— Proceed.

Mr. Brown.— Judge Rapello said in *People ex rel. McDonald v. Keeler*, 99 N. Y. 463:

“ That instrument (the State Constitution) contains no express provision declaring any of the privileges of the members of either house, except that for any speech or debate in either house, the members shall not be questioned in any other place. Even the privilege of exemption from arrest during the sessions, is not declared. No power to keep order or to punish members or others for disorderly conduct, or to expel a member, is contained in the State Constitution as it is in the Constitution of the United States. All these matters are in this State left under the regulations of the statutes, and there is not even express authority to enact such statutes. (1 R. S., Chap. 7, Title 2.) The necessity of the powers mentioned is apparent, and it is conceded in all the authorities (see *Cooley's Const. Lim.*, 133).”

Mr. Chairman, and gentlemen of the Committee. At the time of the recess I was just closing an argument in relation to the method of procedure to be adopted in cases of this kind. The only basis of the argument that this procedure should not be followed is that the State is defenseless and whoever happens to be an elective officer is entitled to enter upon the duties of his

office for the purpose if he will, of destroying the Government which he is chosen to administer. If there be any basis or room for such argument with reference to a citizen elected to this body, it follows that a candidate for Governor, openly disloyal to the Constitution of the State and of the United States, could not be impeached and removed from office, and this would be in direct conflict with the Sulzer case; Governor Sulzer not having been removed on account of disloyalty, but for a lesser offense.

A President-elect of the United States whose announced purpose was the dissolution of the Union would, under such rule, be entitled to take and hold his office. This in the light of the developments of the trial of Andrew Johnson would be absurd.

As we have seen, some of the authorities rest this power upon article 3, section 10 of the State Constitution, and article 1, section 5 of the United States Constitution, that each house shall be the judge of the election returns and qualifications of its own members. While others place it upon the general powers of the house in any particular case, and go to the extent of holding that each house is the absolute and untrammelled judge of the right of a member to his seat, and there is no authority limiting or restricting the power and authority of a legislative body over the right of a member to occupy his seat.

The right to exclude members takes precedence over their rights and individuals. It takes precedence over the rights of the constituents that elected them, and this precedence of right rests upon the fundamental principle and maxim of Anglo-Saxon law, that regard for the public welfare is the highest law.

Nor need the announcement of the principle of the plenary power of a parliamentary body over the right of a member to his seat in said body be the occasion of any alarm, in representative government. While the power is plenary or unlimited in its terms, it is judicial in its nature, has always been exercised judicially and will be exercised judicially in this case.

And it is because it always has been and always will be exercised judicially that the method and procedure adopted is not in conflict with the principles of representative government. It was said by Judge Folger in the 80th New York that "The power thus given to the Houses of the Legislature is a judicial power and each house acts in a judicial capacity when it exerts it. The express vesting of the judicial power in a particular case so closely and vitally affecting the body to whom that power is given,

takes it out of the general judicial power, which is at the same time in pursuance of a general plan that has regard in each part to every other part, bestowed upon another body; both bodies being contemporaneous in origin and equal in dignity, degree and proposed duration."

That is, the judicial and the legislative branches. The legislative branch possesses the judicial power necessary to its own preservation and protection, and no further. It has been exercised as long as parliamentary government has been known without offering a single peril to representative government. And the greatest mistake cited in the exercise of the power was the exclusion of an atheist from the English parliament because he refused to take the Christian oath and no case is cited where the power has been abused on the American continent. This element of justice, fundamental, basic, all-pervading justice which lies at the root of representative government where equal rights extend to every man, reaches out and grasps you in this proceeding. You could not, sitting here in this hall, with the arms of the State inscribed upon your tapestry and upon your walls, with the Goddess of Justice with the scales in one hand and the sword in the other, ever forget justice. And the distinction between the position which you occupy in this respect, and these defendants,—if I may so call them,—is that they would change that figure of Justice; they would leave her blindfolded, they would leave the scales in one hand, but they would strike the sword from the other. You have her standing before you here not merely as a concrete picture of the duty which you are to perform in holding the scales of justice, but you have her here before you with the sword in her hand as a proof to you that it was the will of the people of this State in establishing that insignia that you should render judgment as the scales decided. What kind of justice? Not merely the justice of a court of law where the rules are fixed and determined upon the principle that it is better that many guilty escape rather than that one innocent should be punished, but eternal justice, the justice which enables you not merely to protect yourself but to protect the people of the State, that sort of justice which wells from the minds and souls of the Assemblymen under their obligation of citizenship in the State and in the nation, and under the obligation of their solemn oath of office.

Have we made it plain? Is it clear that you have followed precedents since the republic was established? Is there any necessity of your exercising this authority in the organization of the Assembly? Have you followed the very letter of the Constitution and of the great construers of the Constitution who have gone before you? If you have, you need not concern yourselves with the sort of criticism which is occasionally suggested in one place and another, that it would be better that you had taken the proceeding in some other form. You are not at liberty, in the exercise of your powers and the performance of your duties, to disregard precedent or to disregard the terms of the Constitution, or to disregard your duties to the State. It may be that those who have not studied these problems — and that embraces the most of us — were not familiar, at the time this case arose, with what the precedents were; with what the law was; with what your duty was. That indicated that a study of the Constitution and the history of our country was extremely desirable for all of us. But when the truth appeared, when the principle is clear, it is the performance of the duty and not the study of criticism that should control this Committee and this House in the performance of its duties.

I will not detain you longer upon the discussion of this subject. I wish to say to the Committee that if there is any question, in the course of the matters that I discuss, that any committeeman desires to bring up, or wishes to make an inquiry in relation to, it will not be deemed a discourtesy on his part if he disturbs the argument.

Assemblyman Evans.— Sir, before you finish, I would like to hear from you upon the proposition of article 3: "No other oath, declaration or test shall be required"—as to the meaning of the word "test" there.

Mr. Brown.— Well, the word "test" has a very definite meaning in the development of constitutional history. They formerly had a Test Act and Test Acts, in England and other parts of the English empire, by which a man, for instance, who was a Catholic could not be admitted to a legislative body. The Test Act—I have not briefed up the subject, but I am familiar with it in a general way, as I have read of them in history—and the test referred to is that a man shall not be required to say that he does or does not believe in this or

that or any other thing which, under our Constitution, is deemed to be a matter of a free exercise of his thought, judgment and conscience. It had principal relation to religious tests. I can see that it may have application to other tests, but it certainly does not apply to a case like this, of alleged disloyalty to the country, for the reason that the test of loyalty to the country is embraced in the constitutional oath which every one of you is required to take; and the only test which is to be applied in this case is the test which is expressly applied by the Constitution, namely, ability to take the oath and compliance with it. My associate refers, in this connection, to the case of *People ex rel. Rogers vs. Common Council of the City of Buffalo*, in the Court of Appeals. I am unable to give you the volume.

The Chairman.—What was that case?

Mr. Sutherland.—*People ex rel. Rogers v. The Common Council of the City of Buffalo*. It states the history of the word "test" in the Constitution to be exactly that which Senator Brown has given it. It has relation to those religious tests that were applied in the English Parliament.

Mr. Brown.—I am going to consider very briefly with you some of the features of Socialism as presented to you by the defense. I do this because I think that the discussion of that subject has to do with the motive behind the party declarations, pronouncements of the party, and the acts, so far as the acts have been proved, of the members who are candidates for this House.

I notice that the leading counsel for the five Assemblymen, in describing the progress of the Socialist movement, said that at a period before the war there were some twelve million voting Socialists in the world. Now, I desire to warn the Committee in relation to statements of that kind. You know that he included in his twelve million all of the Socialist Party of Germany, of which there were some four or five million, the great bulk of whom supported the German government during the war, leaving a little rump known as the Spartacides of whom Carl Liebnicht and Rosa Luxembourg were members — representatives who have been killed by the other Socialists since the war, because of their ultra-position in relation to government — their radical position.

I have been an assiduous reader of European politics for many years, and if I understood the Socialist vote in Germany, before

the war it embraced almost all of the liberal elements of Germany, who were of the opinion that their government was too autocratic, and who were protesting against it. The fact that they supported their country loyally during the war is important in this connection, but there is a Socialist government in Germany today, and I see that one of the leading questions which it is discussing is whether or not and to what extent it will compensate the German Emperor.

There is nothing in the politics of Germany which justifies the assumption that the present government of Germany is devoted to the principal tenets of the American Socialist party. It is the Spartacides, the Spartacides, the very same Spartacides that in referendum D the Socialists of America declared must never be excluded from any new Internationale — with a constant abuse in their literature of Scheidemann and Erzberger and the others who are among the ruling class. I desire to call your attention also to the fact that for a large part of the time during the last 25 years the government of France has been with the Socialist party. Briand was a Socialist. The majority in Parliament were Socialists, but it was not the Socialism of Jaures. Not at all. It was a different kind of Socialism. It was the patriotic national Socialism. So that the attempt to impress the Committee with the idea that the world was going Socialist in the sense of the Socialist party of America has no foundation in fact. No foundation in practice — none whatever.

In the organization of the new Internationale, the one thing that the American Socialist Party demands is that everybody that did business in the name of Socialism before the war, and stood by this country in the war, be excluded as Socialist traitors; and that the only ones that shall be associated with the American Socialist party are those who were traitors to their country during the war, including the Russian traitors, who now constitute the ruling power in that country after having torn it asunder north, east, south and west by their treaties and conduct and contributed very largely while they were doing it to the success of the German cause during the very period that we were fighting the Germans.

Now, these are not rhetorical or argumentative statements. They are ever-living facts without one single word of evidence to controvert them and admitted time and time again by the counsel and by the witnesses for the defense.

And as to Socialism, what is it? Hitherto the desire for an opportunity to employ his energy, his talents for individual advancement, to acquire means for the establishment of a home and the care of his loved ones, has furnished man's chief impelling motive for the establishment of a free and democratic government.

Opportunity; opportunity—the basis of the heart's desire and of every human institution, since the creation, during the entire history of man, that has been the struggle of humanity, for individual opportunity, and that age-long quest at last found its great triumph and success in the American Republic. The opportunity to develop your talents, to get an education, to find employment and occupation for the purpose of saving and accumulating so that you and yours might be in comfort; the opportunity to gratify the reasonable ambition of the human heart for position in life, in business, in society, in government; the opportunity to be free and to have secured the earnings which your talents and your industry have brought to you. This has been the picture which has been held before the human mind and which has demanded gratification of the human heart through all the history of the development of civilization, and no where was it ever realized before in the degree that it has been realized in this Republic.

Now, Socialism as summed up by Morris Hillquit may be summed up in an even briefer form. Heretofore thrift and the career of the individual who desired to succeed in the world financially has been controlled by subtraction and addition. He subtracted from his expenses and the gratification of his wishes and he added to his industry and his savings so that he might accumulate, and the result has been the greatest average financial welfare in this country that the world has ever known, not at any one particular period, but at all periods. Now, Mr. Hillquit would substitute for addition and subtraction, division. That is, instead of working harder and saving more and denying one's self, we will simply divide up what other people have saved. Isn't that a fair statement of it? Mr. Hillquit says:

“And when we speak of the right to pursuit of happiness, we mean the right, and the concrete right,” — if there is any such thing as concrete right,—“of every man, woman and child in this country and every other country to life, to sunshine, to air, to enjoyment, to amusement, to the blessings of civilization; to the products of art and science. We mean

by it the right to enjoy life as fully, as nobly, as the best members of our community are privileged to do."

Now, that certainly is a liberal program to carry out,—laying aside industry, laying aside economy, laying aside effort and frugality and self-denial, "We hold that everybody is entitled to enjoy life as fully, as nobly as the best members of our community are privileged to do." I suppose he means by the best members of our community,—I think he mis-spoke himself there,—he cannot mean anything else there except those members of our community who have done best in providing for themselves.

If this were a dream of Utopia or of a millenium or even a Seventh Day Adventist plan of translation to a better world, it would not require your attention. It would only arouse your amusement and furnish to you what Mr. Hillquit claims we are bound to furnish at the expense of those who have saved, to all the people he represents; that is, amusement and the blessings of civilization. It is not the suggestion that demands our notice, but the proposed means of realizing it as they affect us, the state and the nation. If the program succeeds, we shall no longer have a government of the people, by the people and for the people, because it clearly appears in their program that it is not the people but a class, and we will have a government of the proletariat, for the proletariat and by the proletariat. That is, government by a class and all who are not of the class must surrender all their worldly possessions for the enjoyment of that class, and, as Waldman says, if they don't go to work—that is, work as approved by the proletariat—they must starve.

This program would be sufficiently startling as a peace program, but as a revolutionary program, accompanied by revolution, it is terrifying, and as far as it has progressed, menacing to the government and institutions of our country. It has no precedent in history, save the Bolsheviki of Russia whose ideas have not yet, in the language of Waldman, "conquered the world," and the eruptions of Alaric and his barbaric hordes from the same Bolsheviki lands to overrun and confiscate the wealth of the Roman state. A somewhat cursory examination of the present socialistic program shows that it differs from Alaric's adventure chiefly in the expectation that the Huns are already securely quartered upon us, and can, if foreigners, take advantage of the nation's hospitality, and if citizens employ their privileges to conquer the land

and divide the booty; and all that intervenes between their carrying out this program is awakening them to a sense of their power.

In justification of this greedy and tyrannical program, alleged statistics are produced to prove that a great percentage of the wealth of the country is in the hands of the few; and I take the figures of Mr. Hillquit, as to which I doubt if you make any special findings and, therefore, it is not necessary for me to attempt to refute them. It is sufficient to assume that they are true for the purposes of argument, and that fifty per cent of the people have no accumulation of property and no reserve except their labor. This is not so remarkable when we reflect what a large proportion of our population is under the adult age, or at least under the age when you could expect them to have any accumulation. Probably this would cover one-half of the entire population. That many members of families, under our social organization, ignorant and ineffective as it is alleged to be, still gladly remain dependent upon the head of the family in their supposed ignorance; and that a large percentage of our population is foreign-born, or the children of foreign-born parents, who could not be expected, while acquiring our language, and seeking the opportunities — taking the time to seek the opportunities it is necessary for them to take in becoming acquainted with our institutions and finding what the paths of progress are, could not be expected, within the short period of their residence here, to have accomplished what they will accomplish in the future. In this, the principal State of the Union, fully one-half of the population falls within the latter class; and in the city of New York more than three-quarters of the population are foreign-born or the children of foreign-born. How soon after arriving in a land flowing with milk and honey would they take over its palaces of art, education and commerce as their immemorial heritage?

Mr. Hillquit says that these men here — these five Assemblymen under charges —

“Come here as representatives of many thousands of workingmen, who have given probably their youth, probably the greater part of their lives, to the enhancement of the wealth and prosperity of this country; who have been instrumental in building up this country, in making it what it is — great and prosperous — and these men have a right to say today that the wealth that they earned and helped to accu-

multate be equally distributed and the workers have an equal share of it. They are not going to quit this country. They do not have to quit this country any more than you. They purpose to stay. They purpose to contribute the best that is in them for the advancement, for the benefit, of this country, and also for the establishment in it of a better production and wealth distribution."

I applaud the sentiment to the last letter. Stated in this form it is not obnoxious. It may be an exaggeration, but it is not obnoxious. The overwhelming percentage of our immigrants have been true to this country, and their names are inscribed on the headboards of every battlefield of the Republic. But can we say of these five men that they have either contributed to the material progress of the country or to its honor? Only three of them have been examined, and these have with trifling exceptions led a parasitic existence since coming of age as Socialist agitators, with the avowed purpose of overturning this government. Two of them, foreign-born, signed written pledges not to enlist in a defensive war, and all of them are literally knocking at your gates to destroy them. Men of such life and purposes cannot possibly represent a citizenship that has contributed to the up-building of this country.

Stripped of its rhetorical ornaments the proposal is to divide among people of a certain class, including the foreign-born and foreigners, who number millions, the accumulated wealth of all the generations that have toiled and saved on this continent, and to divide it among those who arrived yesterday, and the day before, with others.

Mr. Hillquit's definition of Socialism and of its purpose is qualified by two great party documents, of which he admits his authorship. You know in interpreting the clauses of "Socialism Summed Up" you are entitled to look at his other writings. There are some suggestive clauses in "Socialism Summed Up," but I confess that there the matter is very well camouflaged. Mr. Hillquit drew the proclamation and war program issued by the Socialist Party in 1917, and I will come a little later to discuss the change in tone and voice. He said then:

"The Socialist Party of the United States is unalterably opposed to the system of exploitation and class rule which is upheld and strengthened by military power and sham

national patriotism. We, therefore, call upon the workers of all countries to refuse support to their governments in their wars. The wars of the contending national groups of capitalists are not the concern of the workers. The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare. As against the false doctrine of national patriotism"—there is no modification there.—"The false doctrine of national patriotism:" love of country, willing to give it your life, your property, your family, if need be, that it might be saved. "As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity. In support of capitalism, we will not willingly give a single life or a single dollar; in support of the struggle of the workers for freedom we pledge our all."

What did he say there? He said there that every man that sits in this House sits here as a representative of the capitalist class or at the very least, that the overwhelming membership of this House was so composed; that that was true of the Senate of the State, of the Senate and of the House of every State in the Union, and of the two Houses of Congress. Is it true or is it a libel upon this country? He said that the war was a war between capitalist classes, and he said also that the only struggle in which his class should engage was the struggle to overcome all other classes. Now, this is plain language. It can be understood.

You know that, too, he was the author of the manifesto and emergency message of the Socialist Party in September, 1919, in which he said:

"We, the organized Socialists of America, declare our solidarity"—"or support to," which he says are the same thing,—"with the revolutionary workers of Russia in the support of the government of their Soviets, with the radical Socialists of Germany, Austria and Hungary in their efforts to establish working class rule in their countries, and with those Socialists' organizations in England, France, Italy and other countries, who, during the war, as after the war, have remained true to the principles of uncompromising international Socialism." That is, who have been false

to their country. "The great purposes of the Socialist Party is to wrest the industries and the control of the government of the United States from the capitalists and their retainers."

In any inquiry as to the meaning of the Socialism thus advocated by Mr. Hillquit, it is fair to refer not only to his declarations, but to the declarations of his friends and associates in the movement, particularly those whom he endorses and defends. To avoid burdening the committee with a too detailed consideration of the evidence as to the meaning of Socialism as advocated by the five Assemblymen and their chief exponent, Mr. Hillquit, I have prepared a brief dialogue in which I have summarized the substance of the testimony as presented with some brief references to substantiate it:

Q. What is revolution?

The Socialist reply — A. It means evolution by persuasion. It is a peaceable method. As illustrations we refer you to the French revolution, the American revolution, the great rebellion and the Russian revolution.

Now, Mr. Debs delivered a speech in Cleveland on March 12, 1919, in which he said:

"I am opposed to the system under which we live. I am opposed to the government that compels you, the great body of the American people, to pay tribute to an insignificant few who enjoy life while the great body of the people suffer, struggle and agonize without ever having lived. Can you understand? I am sure you can."

I should think they might.

"Let me get in touch with you for a while. I am going to speak to you as a Socialist, as a revolutionist and as a Bolshevik, if you please. And what is the thing that the whole world is talking about? What is it that the ruling class power of the world are denouncing, upon which they are pouring a flood of all their malicious lies? What is it? It is the rise of the workers, the peasants, the soldiers, the common man, who for the first time in history said, 'I have made what there is, I have produced the wealth; I want to be heard.' Now, for the first time in history, his bowed head lifted, he stands erect and is beginning in his grim strength

to shake off the manacles, straighten himself in the sunlight, in his gigantic attitude, opening his eyes, beginning to see for the first time, beginning to ask why it is he must press his rags closer to his body, that he may not touch the rich man's costly silks that he himself produced — why it is that he must walk in the alleys, why he is forbidden to enter the great palaces that he has erected — why it is that he must support all the banquets of the world that he may not taste. He is beginning to think. That is Bolshevism! That is the revolution in Russia! That is the beginning of the end of capitalism and the end of the beginning of Socialism! And because we say this they are going to put us in jail. With every drop in my veins, I despise their laws and I defy them. If the Scriptures are true, Paul was sent to prison and shortly afterwards the prison doors were opened by an earthquake.

“We are on the eve of tremendous developments. The world before your eyes is being destroyed and recreated. Russia is making a beginning, the Soviet is just a sample. They have shed some blood, they have made some mistakes, and I am glad they have. When you consider for a moment that the ruling class press of the world has been villifying Lenine and Trotzky, you can make up your mind that they are the greatest statesmen in the modern world. In that brief space of time they have done more than all the capitalist governments have ever dared to do in constructive work. They have refused to compromise. They said to the old reactionaries, ‘you will not have any voice in the government until you do useful work.’

“In every previous revolution it was said that the working class was not ready. Russia did not know that it was ready; that is the trouble with the working class of the world.

“We need to unite. We need to get together. We need to feel the common touch. We need to recognize our kinship. The world is against us if we are not for ourselves. Through the history of the ages you have been oppressed, you have been down-trodden, you have been exploited, you have been degraded. When you go for a job to the master class you work under conditions they prescribe. You depend upon them for work. You work for their benefit. Do you like this? This is capitalism.

"These crimson flowers that have just been presented to me represent the springtime, the springtime of revolution."

What did he mean by that? He meant blood. It isn't susceptible of any other interpretation. He advocated and incited his hearers to treat the crimson flowers as representing the springtime of revolution. It was no accident that they were crimson.

We have learned Hillquit's opinion of Debs. Hillquit says: "Comrade Cuvillier, I should say, if you, with all your patriotism, should ever attain to the patriotic heights of Eugene V. Debs I would have a lot of respect for you." And I apologize for using the name of a member of the Committee, but it was not I; it was the witness.

"Q. And you think it was that largeness of view, do you, that led Mr. Debs to say the things which brought him into conflict with the law of the United States? A. Absolutely, just in the same way as it once happened to one Jesus of Nazareth.

"Q. And because of his boldness in taking that position you sit here and approve of his conduct and attitude, and declare he is your candidate for President in 1920? A. Because of his courage, because he remained true to his convictions, because in the midst of universal hatred and blindness, he remained true to the gospel of love and brotherhood.

"Q. I was speaking of what he said in contravention of law of the United States? A. My point, Judge Sutherland, is that he did not say anything in contravention of the law of the United States.

"Q. And you say that notwithstanding the highest judicial authority under the Constitution has declared him guilty of doing that? A. Yes.

"Q. And in contempt of that authority and notwithstanding that authority, you say that he is the man that should be placed in the Presidential chair by the votes of the Socialist party? A. I do."

Debs has been four times a candidate of the Socialist party, has declined once and is the prospective candidate, if the declaration of the Chicago convention is any index and the declaration of every Socialist witness here, of the party in 1920.

Do they practice what they preach?

Algernon Lee was examined and was asked:

"Q. Yes, and of course that attitude with respect to the war followed the program adopted by the Internationale. I think that Mr. Stedman directed your attention to that, is that true? A. Yes."

Let us ask another question:

"Will there be violence and bloodshed and war in the achievement of the Socialist ideal?"

Socialists answer: "We mean that if, after the Socialist have carried the elections and the country has spoken in favor of the Socialist program, the minority attempts to thwart the will of the majority, we will fight them. If I am arrested and brought before the magistrate for saying I am going to throw you out of your house, my answer will be that I intended to convey the thought to you that I was going to buy your house of you at your own price; and if after you gave me a deed and I entered into peaceable possession, you attempted to eject me by force, I would resist violently if need be, and kill you if you persisted in your purpose, because my home is my castle."

I claim that that is a fair interpretation of the explanation which these men gave in relation to the inquiry as to whether there will be violence and bloodshed.

"Do you expect to have a Soviet America? Socialist Answer: No. Mr. Trachtenberg said that he was looking for a Soviet government in England, Germany and a Soviet America just as well. Mr. Waldman said: 'It is your duty to enter the Socialist movement in America to make it more as Russia is today.' Mr. Scott Nearing said: 'So while we rejoice that the Russian revolutionists are breaking economic chains; while we send our good wishes and cheer to the German revolutionists as they throw off autocracy and set up a government of the people, let us not forget that expressions of good cheer and messages of encouragement are not the things that the Russian and German workers want from us. They want from us a workers' and soldiers' council in New York city. They want from us a

workers' and soldiers' government in the United States. When we have an established government, we will have made good our claim to brotherhood and comradeship with the workers of Russia and Germany (pp. 1469-1470)."

Mr. Claessens said:

"Q. You did not have anything in your mind at the time you indorsed the Soviet scheme of Russia for the United States? A. No; certainly not. I have lectured extensively on that subject, showing that in each country changes will evolve out of the natural conditions of that country; and I have quoted Lenine in my lectures to an extent; that is, that no one particular form of government can be imposed upon another country. I remember specifically Lenine's caution to Bela Kun, the Hungarian leader, to be careful of just that very thing. I have stated specifically in my lectures that it would be foolish — unwise — to attempt to impose upon this country the Soviet form of government such as they have it in Russia.

"But we do not mean 'Soviets' really; we mean 'Soviettas', which are much better adapted for America than Soviets" — and here I have taken a little liberty of extending the reply; I was trying to follow a faroff example of Plato's dialogue down to this point; but I am going to engage here in a slight aspiration to reach the imaginary conversation in continuing the Socialist reply — "since they involve the establishment of the Rand School as a national university occupying the buildings now occupied by the Columbia University, which could be had without cost and without violence; the principal chairs could be filled by Claessens and Waldman, and Mr. Hillquit would, with his refinement, be much better adapted for the dictatorship of a system of Soviettas than for a system of Soviets."

"Q. Do you intend to disturb anyone in the enjoyment of their just rights?" The Socialists answer: "We do not. Of course, we prefer the program outlined by Mr. Waldman.

"In that decree (Moscow) there was a clause which must have been a copy of one of the laws passed in the State of New York a couple of years ago when I was in the Legislature, and this is what it was: They declared

an industry in Russia nonessential. You remember the law they passed here, as to certain industries in the State of New York as being nonessential. Do you remember it? They also passed a law there declaring certain industries nonessential. Among those industries was clipping dividends, making profits, getting bank accounts, owning mines, owning banks, owning factories, robbing people, exploiting workers, and all that was declared nonessential in Russia. (Great applause.) And anybody who engaged in those pursuits was going to starve.

"We prefer the rule of the Moscow Internationale.

"On the other hand, the Council type of government makes it possible for the proletariat to realize its rights and liberties. The Council power gives to the people palaces, houses, printing offices, paper supply, etc., for their press, their societies and assemblies. And in this way alone is actual proletarian democracy made possible."

And we prefer the proposal of Mr. Hillquit in his address:

"In this connection also, very briefly, we are charged with having adopted a resolution for the repudiation of war debts. You remember the history of it. It was adopted in the platform before any Liberty Bonds were in existence. It was suppressed by the National Executive Committee because Liberty Bonds had been issued at the time of its enactment. I will merely say this, gentlemen: The Socialist party, even in Russia, in nationalizing private property, has taken care to compensate the small investors depending upon it. I think the small people, the employees who bought with their savings, a fifty-dollar bond, a hundred-dollar bond or two hundred dollars' worth of bonds, should be safeguarded. So that we shall not be misunderstood, I shall say, if there is no law to the contrary, and I hardly know of any, the best, the sanest thing that the world can do today is to repudiate all war debts, and to begin life anew with a clean slate. These war debts today

amount into the billions and billions, requiring annual interest of many billions. Barring the small employers and bondholders, who hold a very small minority of it, the vast bulk of it is in the hands of the very rich. Now, what does that mean, gentlemen? Forget the terms, bonds, interest and all other legal terms. Take the institution into consideration and it means this: that we have, on account of the war, created a certain class or certain classess all over the world which hold a mortgage upon their fellowmen; that every year the workers and the people of every country must produce billions to pay interest on these bonds; that when we are gone, when our children are born and grown up, they will have to work in order to pay the interest on these bonds to the children of those who are happy enough to hold them. We have a new class. We have created a new form of bondage by these tremendous unprecedented loans, and as a measure of self-protection, I say mankind that are represented by all nations involved in this war would, in my opinion, and I believe in the opinion of a great many non-Socialist authorities, do well to repudiate them all, except small holdings, and start out afresh."

That is in the plan of Socialism which is presented by Mr. Hillquit. He appears before you and asks you to accept as a reasonable proposal the repudiation of the debts of the nation; the repudiation of the debts of the State of New York; the repudiation of all the debts throughout the world — except to whom? To the proletariat. He says: "The proletariat may have a few of these bonds, fifty dollars, one hundred dollars, or two hundred dollars." This is in entire harmony with their philosophy; and the Socialists answer in this manner: "We mean to do all these things in an entirely peaceful way unless opposed — UNLESS OPPOSED."

And I submit another question:

"Are you patriots?"

The Socialist answer:

"We are, but we do not understand 'patriotism' as you do. We do not believe it is necessary every time some foreign nation wantonly sinks ships carrying hundreds of American

men, women and children, to make a fuss about it, or go to war. What do those people amount to as compared with the millions of American people, when none of them belong to the Proletariat. We would be more respected abroad if we went on quietly about our business.

"Then you and we understand patriotism in war differently. We believe the way to win a war is to quit it and make peace immediately, and that it is unpatriotic to support the government in prosecuting a war. We, therefore, sided with Lenine against Kerensky when he was trying to stir up a new offensive against Germans on the eastern front. It was more important to stop the war and have the Russian revolution than it was to attack the Germans there. There can be no justifiable war as long as present capitalistic government continues. Patriotism demands of us both negative and affirmative action. In case of war it is our duty not to enlist, and not to take a dollar of the national loan or vote a dollar for military or naval purposes or for war. It is likewise our duty to appeal to our fellows to encourage a general strike to paralyze the government so that it cannot conduct the war, and peace will come quickly.

"We do not believe in military or naval appropriations in time of peace before the Socialist revolution takes place. They might delay or crush the revolution, but when that revolution is successful, we do not believe in military and naval establishments to make it secure. We are not pacifists.

"We have proved our patriotism constantly by struggling to arouse our countrymen to overthrow the present iniquitous governmental system, and in this we have gone so far as to describe the elections of the country as corrupt and unreliable; to describe its judges, both federal and state, as corrupt and unreliable, and we have said the same of its executive officers. The whole system of government is one and of one kind, and we do not hesitate to speak of it as the 'United States of thieves' (p. 60); to 'say you have no right to speak of the American Republic. It is merely one huge institution based upon fraud.' Or as James Oneal said, 'What they hold up to us is an image of their own rotten dirty regime in the United States, and this particular thing, this vile thing that they have made a thing of hatred and disgust throughout the United States, they have labeled it the Bolsheviki.'"

This man Oneal is a very considerable man in the party. He is connected with the *Call*, the leading organ of the Socialist party and he was the representative of the Socialist party of America who went to Europe to make a report on socialistic conditions over there. Now you have to take all these things into consideration in determining what they mean, when they put these soft answers on. You have got to consider the whole. You cannot take merely the explanation which these men give here under the pressure of this investigation.

As a foot note to this answer we refer to the testimony of Mr. Hillquit.

“ Q. Has the Socialist Party in any official utterances, or has any authoritative writer, or any leader of the Socialist Party of America ever, to your knowledge, expressed admiration for or satisfaction with or loyalty to, or a desire for the perpetuation of the institutions and constitution and laws of the United States? A. The Socialist Party of the United States was organized for the purpose of bringing about certain radical changes in the constitutional form of government, in the industrial life of the United States and hence could not express admiration for existing conditions. It is an opposition party. It has on numerous occasions expressed a very sincere desire for the welfare and the well being of the people of the United States. ”

“ Q. That is the answer you desire to make to the question I have asked you? A. I have made it.”

Mr. Hillquit says, “ Do you know, gentlemen, we are the only political party that not only is not fomenting class troubles, but tries to eliminate all classes and all class struggles.”

Mr. Hillquit's proposal to do away with all conflict between classes is to destroy all classes except his own. That is the reason and meaning, that is the means that he proposes to employ to do away with class rule. He proposes so far as all other classes are concerned, to make a wilderness and call it peace. It is the supersession of right by might. It is, so far as its very inmost principle is concerned, a return to barbarism.

The Chairman.— We will take a recess of fifteen minutes.

(Whereupon at 3:30 P. M. recess was taken for fifteen minutes.)

## AFTER RECESS, 4 P. M.

Mr. Brown.— Mr. Chairman and gentlemen of the Committee, it is your duty to weigh this evidence, and in weighing it to remember always the main purpose — the Socialist purpose of the party of America.

Now, the purpose of the Socialist Party of America, as presented in some of the testimony, is explained to be a mere harmless agitation, attempt to persuade the people of the country that it was "a good thing," the kind of Socialism that you and I were acquainted with before the war which involved the general betterment of the poor; improved tenements; more sanitary conditions; better hours; care to see that nobody was forced in oppressive conditions to work for less than he or she was entitled to receive, or that children should be compelled to work at the expense of the development of their manhood and their womanhood. That is the view now which the Socialists — the five Socialist members — would like to have you take; but if you take it you deny the entire force of their program. It leaves their program a foolish and empty one. A finding to that effect would deny the hope upon the part of the Socialist Party to accomplish their program. The claim must therefore be discarded.

It is also a rule in weighing of evidence that you are to consider written and formal documents upon their face, for their face value as the expression of the intention of the parties that framed them and adhered to them rather than their declaration at some other place and time as to what they intended. You must consider their history. You must consider their acts. When they say, "These crimson flowers are emblematic of the revolution," it doesn't mean that they are engaged merely in an effort to ameliorate the condition of mankind in the ordinary peaceful avenues that all of us are accustomed to walk in. When they say that they are in favor of the Internationale and that national patriotism is sham, it might if declared by an orator upon the platform be explained by him as something said in the exuberance of the occasion — but these men who appear here before you and this party that they represent have given proof of their adhering to this program in their conduct toward the United States during the war. It involves no small sacrifice for a citizen of a country to speak of his country in a disrespectful way. It involves no small sacrifice

for a man to stand up and tell his fellows that under circumstances will he voluntarily raise a hand in defense of his country. It requires no small sacrifice for a man to say that he will never give his approval to anyone's enlisting to defend his country. I am not here to say that the Socialist party by the position that it has taken, and these claimants by taking the positions they have taken, have shirked responsibility. Many for saying and doing these things have paid the extreme price of giving their lives, and the use of the word "martyrs" for the Socialist party is not without significance. When it is used of them it means that if the occasion arises they are willing to die in the cause which they have espoused.

You know there was a party in France called the Dreyfus party. That was the party that was against the success of the country, scarcely a party perhaps, not organized as a party like the American Socialist party is organized, but sufficiently organized so that at one period during the war there was grave danger that its incursions upon the loyal men of the French Republic would disorganize it and render it ineffective for the defense of the country. Hundreds of those men and perhaps thousands — the facts have never been published — were shot because of their disloyalty to their country. These Assemblymen have taken their lives in their hands for the purpose of overthrowing this government, for the purpose of demonstrating to this people that national patriotism is sham, for the purpose of entering into a movement world-wide of which Russia now happens to be the head, for the purpose of enabling the proletariat, of which they claim to be the leaders, to enjoy the good of the earth to the exclusion of everybody else who doesn't join them. And it is this feature of the case that renders it such a serious matter. It is this feature of the case that renders them traitors to their country. They say to you — or Mr. [unclear] does — that every indiscreet remark, every unauthorized disclosure, the ebullitions of the uncontrolled members of the Socialist party have been gathered together here for the purpose of influencing you and bringing you to the conclusion that the Socialist party is moved by these disloyal and horrid purposes.

Gentlemen of the Committee, I wish to say now that for my part, and I say it with the entire concurrence of all of the counsel upon this side, that if this was true the law would be sufficient to treat the individuals who are guilty of them, but such a claim cannot for an instant be maintained. The argument

Mr. Conboy upon this subject is absolutely conclusive. The continuous chain of declarations, official and personal, the devotion of the party to leaders who now languish in prisons because they have come in conflict with the laws of the United States, the continuous adherence of all of these claimants and of the party to Debs who now languishes in prison because he was against the laws of the United States and considered these crimson flowers emblematic of the revolution, when they do things of that sort persistently, when they declare them officially, when all the speeches they deliver, so far as they are before you, give expression to these purposes, you cannot come to any other conclusion than that it was their purpose and that their present explanations, softening the declarations and explaining that the declarations did not mean what they say, are for the purposes of this investigation only.

Mr. Claessens testified that he had made twenty-four hundred speeches. The only speeches that we were able to get of his and produce before this Committee, were the speeches that were taken by the government of the United States while seeking to suppress sedition. He must have speeches that he has delivered in various places. Why were they not presented? Why weren't Waldman's soft speeches presented? We could only get the speeches that were available. In his locker are many more speeches which are secreted from you, and if they were produced it would be found undoubtedly that twenty-four hundred times Claessens had said disloyal things, and attempted to spread from ocean to ocean this insidious and poisonous propaganda for undermining our citizenship.

They say another thing: They say that there have been things said by American statesmen at one time and another, that were not just right; but in selecting those statements they have violated the very rule which they accuse us of violating, namely, in selecting examples — evil examples — of their literature. We have not limited our search. We have not limited them in the presentation of these inoffensive speeches, if they have made them, and none have been produced; but they have ransacked the history of the republic to find half a dozen speeches, ill-advised and unjustifiable, made in the Houses of Congress, or elsewhere by statesmen of generations ago; and I want to say in relation to that that the Government of the United States is, in a way, an evolution, and that very many things could be said about the government of the United States by statesmen prior to the

war of 1861-1865, when we were to a certain extent still a loose confederacy, that could not be said now. The idea of nationality never got hold of the hearts of the American people — all of them — until we had to fight to the death to save our nationality and since that time we have lived in a better world and in a higher plane of patriotism than we ever lived in before, patriotic as those men were. And because half a dozen of them said unpatriotic things at that time is no excuse for a whole party organizing to carry out an unpatriotic purpose now. See what the difference is between the exceptions that are presented by them and the great body of the evidence presented by us. Why, these men — Charles Sumner and Daniel Webster and the others — who said these indiscreet things in the past were among the greatest contributors to American nationality, and when they said them, they never uttered one single word in favor of the destruction of this government. On the contrary, they were among the greatest contributors to its preservation. It was Daniel Webster who said we should have one indivisible union. It was Sumner who stood forever for the union during the war of the rebellion. These examples are inept because while the men who uttered the speeches uttered them indiscreetly, and they are speeches bordering upon the point of disloyalty to the administration at the time, they were not speeches which were susceptible of the interpretation that these men were not patriots and were not for this country even though it was wrong.

I take no exception to a Quaker, who has a conscientious objection against war, not being willing to fight. That is one of the exceptions which the tolerance of the American people has met, as you might expect it to meet, such a condition. I take no exception to a very strong position on the part of a public man toward a particular war. That represents the expression of true American opinion for the benefit of all our people, but that is different from a pledge not to help our government in any war. That is different from a statement that there is only one war in which we ought ever to engage, and that is the struggle of the workers against the capitalist class. That is different from saying our government, as a government, is a capitalistic government, and not a government of the people and ought to be destroyed. That is different from saying that we will join people throughout the world for the purpose of destroying that government and all other government with it similarly organized, expressive of the will of the people.

They attempt to confuse your minds by saying that they engage in lawful expedients and undertakings for the purpose of furthering their opinions. Did you ever know anyone that was engaged in an unlawful purpose that did not do many things while entertaining the unlawful purpose that were justifiable? Does a murderer who plans to commit a murder a month hence not lie down to sleep at night and rise in the morning and eat his meals? The proposition that a man who entertains such a dishonorable purpose can excuse himself from it because he lives like other beings while he is entertaining it is not tolerable. The Socialists, of course, believe in propaganda, and when the propaganda is not in violation of the law, are entitled to their propaganda; and believe in education, and when the education is not in violation of law, and does not deal with seditious and treasonable things it is commendable. I do not now, however, include in education that monstrous fountain of poison to patriotism known as the Rand School, whose streams trickle hither and yon throughout the entire nation, spouting from the artificial fountains of Scott Nearing, Claessens and Algernon Lee, and all the tribe of traitors that infest it. It has been indicted and convicted by the government of the United States. It is a reflection upon the doctrines of freedom and liberty that it is not entirely suppressed. You can judge as well perhaps of the utterances of Mr. Hillquit by his explanation of his friend Debs, which I read you; by his description of Lenine, "as a sober and moderate man," whose friendship he enjoys. Lenine, the monster who has wrought ruin to the civilization of Russia, to whose charge lies innumerable assassinations and murders, who has overturned the whole system and fabric of society for the purpose of working out his will — the Socialist will,— upon the people of Russia.

No wonder the name of Bolsheviki has come to be a name of horror. We have all seen the pictures of the dead lying in the streets — the starving women with their children. We know what it means in society as well as nationally. We know that Russia today is the most disturbed territory in the world; that its horrors exceed all horrors of history since the French Revolution. We know them. They have come to us, and the Socialists know them — but there is no horror which will deter them from carrying out the Socialist purpose. They have been for every revolution in the past, and they are for every revolution of the future, except the revolution which will overturn the Bolsheviki; and

today there is no doubt from the evidence which is before you, from expressions of opinion given by witnesses, and the literature which you have here, that the American Socialist party would run all the chances that its courage permitted it to for the purpose of supporting Lenine and the Bolsheviki of Russia. What for? As they all say, because it is a monument to their belief, and its maintenance will help its extension here and throughout the world; and its destruction means their destruction, or at least the indefinite postponement of their revolutionary and awful program.

"Berger is not a firebrand," says Hillquit. Read that man's paper. Read his advice to the Socialist party. Read his proposals, and tell me whether a man of Hillquit's intelligence, who is familiar with them, who is an associate of his upon the National Executive Committee of the Socialist party, is ingenuous when he tells you he is not a firebrand and is a desirable citizen. Men are known by the company they keep, when Socialist parties are abroad, as well as when they are not, and when the leaders of the Socialist party find half of their leading members in prison and the other half skulking for the purpose of deceiving the people as to the purpose they have entertained, you may be sure of the class to which they belong.

Mr. Hillquit tells you that the Socialist party has no motive for concealment. Let us examine the claim. Was there any motive for suppressing and concealing the planks in the 1917 program against conscription, and for the repudiation of debts, after they had been thoroughly promulgated throughout the United States and adopted by a referendum of the Socialists, except the motive of escaping the penalty of the Espionage Act? Was there any idea of concealment and evasion when Solomon said, speaking of Oneal's speech, speaking for the benefit of the Department of Justice agents: "That when the police officials or the Department of Justice agents read that speech, finding nothing in it that in their judgment is seditious or violative of the law, they will pass it up, unappreciative of the splendid message that it contains."

Is there any motive for concealment or evasion to escape the penalties of the law for treason, or to keep from the enemies and antagonists of Socialism the unlawful and violent purposes entertained to despoil them?

Have these five Assemblymen any motive for throwing dust

in the eyes of this Committee so as to blind them as to the real meaning of their conduct and declarations?

Their seats are at stake. The admission of Socialist members to future organizations of this body is at stake. The admission of the Socialist Party to the representative legislative halls throughout the United States is at stake. No one ever came with a greater stake and a greater motive than these people have here to mislead you.

When Kruse, secretary in charge of the Young Peoples' propaganda — Oh horror! the Young Peoples' Socialist Organization throughout the United States,— what criminal lesson did he impress upon them when he said to them:

"If you have followed my previous instructions you will now have an official 'emergency' committee, composed of the most trustworthy young Socialists in your league; you will have several copies of your most important records and especially of your mailing list stowed away in various safe and secluded places; and you will have three trustworthy officers broken in for each important job that is vital to the welfare of the league. At least one of these officers should be a girl, so that if our boys were all jailed for refusal to serve, the girls can keep the league going." Now, comes the next step.

"Get the emergency officers together and lay this matter before them. Make up your minds that if even the Y. P. S. L. is suppressed you will immediately get together all of its members as quietly as possible under the name of some athletic club, dance society or pleasure club. The name of this other organization should have nothing in common with Socialism, but it will be the Y. P. S. L. just the same. Should this other organization be discovered and disrupted, go through this same process again and again, and again, if necessary."

You will remember that in the early part of this trial there was difficulty in having this letter admitted. It was claimed that the Socialist Party was not responsible for it. The letter, however, was admitted; and later in the development of the evidence it turned out that Kruse occupied a seat in the national executive office of the Socialist Party; and it turned out further that he was one of the convicted criminals of the Socialist Party because of his seditious and treasonable utterances.

Now, there is another question as to Mr. Hillquit's dealing with the Committee. Mr. Hillquit told the Committee that he did not know of the Moscow Manifesto when he drew the Chicago Manifesto. The Chicago Convention was held in the last days of August and the first days of September, 1919. Mr. Hillquit was a member of the Executive Committee of the Socialist Party of America. The letter of the Secretary of the Literary Department of the Socialist Party dated May 21, 1919, announced the publication of the Communist Manifesto of Moscow as the greatest deliverance made since the manifesto of Marx and Engels.

The New York Call of May 21, 1919, published the guiding rules of the Moscow Communist Internationale. Mr. Hillquit was able to testify before the Committee in detail as to the facts with relation, as he understood them, to the Russian revolution and the Communist Internationale. He is the best informed man in America in relation to Socialist literature. On May 21, 1919, Mr. Hillquit published a reply, or a communication, in the New York Call, saying:

"The Communist Congress at Moscow made the mistake of attempting a sort of dictatorship of the Russian proletariat in the Socialist Internationale and was conspicuously inept and unhappy in the choice of certain allies and in the exclusion of others." (P. 1262-53.)

If he had not read the Moscow Manifesto, where did he get his information? This communication of his in the New York Call bore the same date as Firth's letter declaring the Moscow Manifesto to be the greatest pronouncement made since the Manifesto of Marx and Engels, and then on sale by the Literature Department.

Can this Committee accept Hillquit's statement that he did not know, at the time of the Chicago convention, in the latter days of August and the first of September, the terms of the Moscow Manifesto, which was in open circulation among the Socialists of America as early as the 21st day of the preceding May? If he acknowledged that he knew of the Moscow Manifesto, with which he is avowedly in sympathy, before drawing the Chicago platform, it might be construed as evidentiary proof of the purpose of the Chicago platform to employ violence? Mr. Hillquit is a good lawyer and familiar with the statutes of this state, and familiar with Section 161 of the Penal Code which provides:

**"Any person who:**

**"1. By word of mouth or writing advocates, advises or teaches the duty, necessity or propriety of overthrowing or overturning organized government by force or violence, or by assassination of the executive head or of any of the executive officials of government, or by any unlawful means; or,**

**"2. Prints, publishes, edits, issues or knowingly circulates, sells, distributes or publicly displays any book, paper, document, or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that organized government should be overthrown by force, violence or any unlawful means" is guilty of criminal anarchy.**

He is also familiar with the statutes of the United States, which provide for the deportation of Communist aliens, the same Communist comrades that he said must not be treated unkindly, in his letter here in evidence, because when the time came they would be found striking in common with the Socialists against the master class. He is familiar with that and he knows of their deportation and reads in the paper of the sailing of the Soviet ships. Can the Committee assume that he is steering his course other than to escape the penalties of the law for himself and his comrades?

Mr. Hillquit gives, in this connection, an important bit of evidence. He says that while the guiding rules of the Internationale—Moscow Internationale Manifesto—were published in the New York Call on the 21st day of June, 1919, the pronunciamiento itself was not published. The language is not exactly the same as I am using, but the meaning is indubitable; and that the Call stated that it would publish the Manifesto later; but that it never published it. You will find the reason for its not publishing it in Section 161 of the Penal Law. But that does not mean that Morris Hillquit, one of the Executive Committee and one of the great leaders of the Socialist Party in the United States, did not have a copy of it when it was on sale in the Executive offices, under the control of his Executive Committee.

There is an ancient maxim of law, a maxim of the common law hundreds of years old which we derive from England, that "He is not to be heard who alleges things contrary to each other. A man shall not be permitted to blow hot and cold with reference

to the same transaction or insist at different times on the truth of each of two allegations according to the promptings of his private interest."

No dissertation upon this established maxim of our law is necessary for the purpose of appealing to you as to the complete justice and comprehensiveness of its application to the case in hand.

I come now to a discussion of the principle of free speech, which is invoked by the Socialists in justification of the circulation of their treasonable literature. They cite that provision of the Constitution which provides that "Congress shall make no law \* \* \* abridging the freedom of speech or the press; or the right of the people peaceably to assemble and to petition government for the redress of grievances."

This noble monument of the progress of civilization derived from the law of England, is a part of the written constitution of the United States, and is appealed to by the Socialists in justification of their treasonable and seditious utterances and platforms. You will recall that the Socialists would not be able to understand the obligation to appropriate money for the maintenance of the state militia except it was judicially construed to impose such a duty upon them. It was remarked by one of the five Assemblymen that the Constitution was largely a matter of construction. They seek no judicial construction of this provision. They construe it for themselves to serve their own purposes. Whenever they find any provision in the Constitution which serves their purpose, they are ardent adherents of it, but they are adherents of no provision of the Constitution except it confers upon them a privilege. If it imposes a duty or obligation, they ignore it and deny it, and seek by their formal party declaration its destruction, because if there is anything in the United States that preserves property and the right of property, it is the Constitution of the United States and the Constitution of the State of New York. They are for wresting government from the control of the capitalist classes and instituting a system of government directly opposed to the present system which recognizes the rights of all men, rich and poor, black and white, great and small, intelligent and ignorant, powerful and weak. They call such a government a bourgeois democracy against which all of their antagonism is directed.

These men have never been denied the fundamental constitutional right of free speech. That right they have had in abun-

dance and without limitation or reserve. The only question upon this trial is whether in exercising that right they have transgressed its bounds, for it has bounds, and when those bounds are transgressed, the men who transgress are under the Constitution of this State obliged to answer to the law.

If there were no such limitations, and if there were no legal responsibility for violating the limitations, then anything might be said with impunity. Not only might government be attacked, but individuals libelled and slandered. Rebellion could be incited and fomented by unjustifiable attacks upon our government and institutions. There would be no security for either, and this means that there would be no security for the constitutional guarantee of freedom of speech. The guarantees are in imminent danger when the guarantor is subject to attack.

It happens that this provision of the Constitution was fully construed in the celebrated case of the People vs. John Most. I desire to cast no reflection on Mr. Hillquit on account of his being counsel for Mr. Most in that case.

I am going to read you in relation to free speech from the case of People against Most, decided by the Court of Appeals in 1902. Most published this article on the day that President McKinley was shot. It was entitled "Murder vs. Murder," and the opening sentence is as follows: "As Heinzen said, nearly fifty years ago (this is true even today), 'There are various technical expressions for the important manipulation by which one human being destroys the life of another.' Various definitions of murder follow, and it is stated that the purpose of murder is always the same." And he then went on to argue that our government and governments generally, including our government, were occasionally taking the lives of their citizens under assumed forms of law and that when they did that they were committing murder, and the only way to meet it was for men like Most, who believed those who were killed were murdered was to murder those who killed them and the trial hinged on the question whether Most could publish an article of that kind. Most suffered in the same way that these Socialists are suffering. It was an unhealthy day for the appearance of an article of that character in the American press, even though it bore the name of "Freiheit." The people of this country loved William McKinley and hated anarchy, and of course Most was dealt with a little more promptly by the grand jury and the district attorney and the courts than he would have been dealt with in another time. The shining mark of the Presi-

dent of the Republic, the consciousness throughout the country of the danger to our institutions and the discovery in our midst of men with these evil purposes of murder, who sought to destroy our government and our institutions, aroused the people, and the anger, the holy anger, of the American people at the outrage, undoubtedly were part of the environment under which Most was tried and did not help him.

These Socialists are suffering from an environment resulting from the war and its great trials resulting from the loss of all those thousands of Americans who lie buried in France. It is not their fault that these things have happened. It is to our advantage and one of the benefits of these great national sacrifices is that it makes better patriots of us and makes us think straighter and clearer of the country which is ours. When this case was presented to the court the following contentions were made by Mr. Hillquit as counsel:

“The conviction of the defendant cannot stand under the Constitution of the State.” “The publication of the article did not openly outrage the public decency.” “The publication of the article did not constitute an offense under section 675 of the Penal Code.” “The publication of the article was not a punishable offense under the law.”

This then is not the first time that these contentions have been presented. They have been presented before and were adjudicated by the highest court of this State.

“The Constitution,” says Judge Vann, writing the opinion of the court, which was unanimous,

“The Constitution does not protect a publisher from the consequences of a crime committed by the act of publication. It does not shield a printed attack on private character, for the same section from which the above quotation is taken expressly sanctions criminal prosecution for libel. It does not permit the advertisement of lotteries, for the next section prohibits lotteries and the sale of lottery tickets. It does not permit the publication of blasphemous or obscene articles, as the authorities uniformly hold. It places no restraint upon the power of the Legislature to punish the publication of matter which is injurious to society according to the standard of the common law. It does not deprive the State of the primary right of self-preservation. It does not sanction un-

bridled license, nor authorize the publication of articles prompting the commission of murder or the overthrow of government by force. All courts and commentators contrast the liberty of the press with its licentiousness, and condemn as not sanctioned by the Constitution of any State, appeals designed to destroy the reputation of the citizen, the peace of society or the existence of the government."

The Socialist Party insists that they have the right of revolution. Whatever may be said of a revolution, it cannot be said that it is the duty of the government against which it is directed to submit to it. Revolutions are successful rebellions and rebellions are unsuccessful revolutions.

Mr. Hillquit said in his address:

"There has been a very characteristic incident in that connection. You remember when Mr. Littleton opened this case in a very eloquent address he took me to task for having said this, 'What is treason today may become the law of the land tomorrow.' And he said to you by way of warning, 'It will if you let traitors write your laws.' It seemed to be an eloquent argument but what is revealed is that my good friend, Mr. Littleton, and those of the same social and economic school with him have gone to the point where they already consider the fundamental law of this land, the Constitution of this country, with its Bill of Rights and Declaration of Independence as traitorous. They are ashamed of it; they discard it. Aye, they don't have the courage to repeat it all. Mr. Littleton on that occasion read from the Declaration of Independence and he read a portion of it, and I shall repeat to you. He said, quoting the Declaration of Independence, 'We hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted amongst them deriving their just powers from the consent of the governed.' And he stopped right here and stopped dead, because he did not dare to read what follows, and what follows is: 'Whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it and to institute a new government laying its foundations on such principles and

organizing its powers in such form as to them shall seem most likely to effect their safety and happiness,'— well, gentlemen, we are here to remind you that this eloquent sentence is a legitimate and organic part of our independence just as well as the part read by Mr. Littleton, and we say to you that we believe, sincerely believe, that the present form of our industrial government, our industrial regime, has become destructive of the very ends proclaimed as inalienable rights in our Declaration of Independence."

The Declaration of Independence was a Declaration of Independence from a foreign domination and for the purpose of establishing a free representative government on this continent and what was said then we adhere to fully, but it furnishes no justification whatever for the Socialist contention. The Declaration, I will read it to you:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed, by their Creator, with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and institute new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

Now, Mr. Chairman, in relation to that passage I desire to call your attention to this. Mr. Hillquit read the words that were not read by Mr. Littleton for the purpose of justifying a revolution against this government; words that were uttered in justification of the revolution, the American Revolution, he has twisted into a justification for the action of the Socialist party in seeking to overthrow this government. Otherwise his language cannot be significant. The Declaration recognized no class, and had for its leaders Washington and Hancock, wealthy men of their day. To invoke the Declaration of Independence to justify the Socialist party's revolutionary purposes is a gratuitous insult to its framers and the nation. That declaration has carried the torch of liberty to the darkest corners of the earth and lighted the footsteps of

millions of the oppressed to our shores, among them Morris Hillquit, August Claessens and Louis Waldman. But Hillquit represents the declaration as justifying the dedication of his life to employing every opportunity to benefit himself personally and to destroy our government and institutions.

Well, you know patriotism, as the Socialists understand it, is not our patriotism, and so you know the Declaration of Independence as we understand it is not the Socialist understanding of the Declaration of Independence. They believe, or profess to believe in this statement, that when our fathers planted they sowed the seed of tares and thistles that will grow up and choke and destroy the crop of American freedom, liberty and pursuit of happiness. The simile is not a sound one. It has no application. It is not true in fact. The truth about it is that another simile is much more applicable, namely, that a serpent has crawled into the bosom of the Republic for the purpose of stinging it if possible to death. The seed was not sown with the original crop. It is not a matter of vegetable growth. It is a matter of animal venom and that venom is directed to destroying the institutions based upon the Declaration of Independence.

Now, as to the right of revolution; there never was any such legal right as the right of revolution. It is unknown to the law and unknown to men. There may be a moral right to revolution, but whoever claims to have the moral right of revolution runs the chance of running against the law of the land. He runs the chance of being charged with treason and if he is unsuccessful having his heels dangle in the air as a traitor.

I have reached a point in my argument where I desire to direct your attention to the violation of their oath by the members elect who are before you.

The five Assemblymen subscribed the following oath:

"I do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of Assemblyman according to the best of my ability."

I desire to call your attention, without reading, to that portion of our Constitution which provides for the establishment of a State militia of ten thousand men, and it shall be the duty of the Legislature, at each session, to make sufficient appropriation for the maintenance thereof. I desire to particularly call your atten-

tion to the Federal Constitution. You will find the provisions of the Federal Constitution providing for a military and naval establishment, and for the conduct of war, collated in the brief which is submitted to you. They are full and complete, and there can be no support of the Constitution of the United States which eliminates from that great instrument the power and duty of the government to maintain armies and navies, and to fight — in a proper case to make war.

The obligation thus assumed by this oath is presupposed to be the obligation of all citizens. It is formally and solemnly taken by the members chosen to this body as a security against the admission of any citizen not in sympathy with the institutions of the country. It expresses part of the obligation of every citizen to defend the life of the republic, and presupposes a patriotic devotion equal to that expressed by the signers of the Declaration of Independence when they stood firm for the support of this Declaration "with a firm reliance on the protection of divine providence, we mutually pledge to each other, our lives, our fortunes and our sacred honor." The pledge of loyalty is not limited. It is the supreme obligation of the citizen before as well as after he has taken the oath.

In relation to this I desire to quote to you from a distinguished jurist:

"But the true spirit, intent, and meaning of the constitutional oath is to bear true faith and allegiance to the national and state governments. It certainly was not the intention that the officer should merely swear to support the parchment on which the Constitution was written, or the paper on which it might be printed, but to support the government organized by that instrument. Nor in thus taking the oath to support the government does the officer swear allegiance to the individuals who administer it. It is fidelity to the government that was organized by the Constitution, that has existed ever since, and is intended to exist through all coming time, as administered by the official agents of the people, that is required."

This obligation was met by the New York Legislature, you know very well how. You did not limit your action to raising ten thousand men. You raised whatever men could be used. You did not limit your appropriations to maintain a militia of ten

thousand men. You appropriated a million or five million every week as the case might be for the purpose of aiding the Federal Government in conducting this war as became you under your obligation as an integral part of the federal union.

The National Congress did not study the Constitution for the purpose of giving as little relief as it could under the particular terms of the Federal Constitution. They appropriated money without stint as required by the Executive officers of the United States and the army and navy, and they submitted themselves and the country to a dictatorship where complete power was given to the President to do everything in a military and naval way, and industrially for the accomplishment of the supreme purpose.

If a man seeks to destroy you or your family do you limit the effort to defeat him? If a man seeks, or a nation seeks, to destroy your country, do you give grudgingly of your life, your substance or your family to defeat it?

How were these obligations met by the Socialist Party and the five Assemblymen, and mind you these obligations rest upon every loyal citizen? Nothing may stand in the way of a man's defense of his country. The National Constitution of the Socialist Party provides that they may not vote any money for military or naval purposes or war, or if they do, they will be expelled from the party.

Each of the Assemblymen in his application for membership in the Socialist Party agreed to abide by this. This plan is expressive of the general plan of the Socialist Party to hamper and cripple the government in the exercise of its duty of self-defense. The declaration of the Socialist Party is no more inclusive in its terms of what they intend to do against the country than the provisions of the Constitution of the State of New York and of the United States are inclusive of the duty of a citizen toward his country. In both cases the declarations are significant. In the case of the Socialist Party, their platform indicates they desire and expect to do less than nothing, and in the case of the State and Federal Constitution they imply an obligation to give our all for our country, and the difference can not be estimated to be the difference between the proposals of the Socialist Party and the provisions of the Constitution. It is not a new doctrine of the Socialist Party. It was the doctrine of the Socialist Party before it was put into their platform, because in 1900 the Socialist Party Congress at Paris enacted a provision that "Socialist deputies in every country undertake to vote against all military expenses, and all expenses for the fleet and

for colonial military expeditions." And these men who were sworn come here and patter in relation to this for the purpose of deceiving you as to their intention. They say that it does not mean what it says and they will vote for military appropriations if they are required to by the Constitution; and here is the point. What good is a man in this country who comes to the Legislature and would not do any more to defend his country than vote to maintain a militia force of ten thousand in a population of eleven million people,—the greatest State in the Union of States,—even if he voted for it, and says before he would do so he would need to have a judicial construction of it that it was mandatory upon him. Such lip service is only added proof of their treasonable purpose to let the country go to the dogs that their propaganda may triumph.

This pledge cannot be regarded merely from the point of view of the proposed action of the individual Assemblyman. What it is improper for an Assemblyman to do, because it is against the interest of his country, he may not do as an individual with impunity because the majority of the Assembly or the legislative body of which he is a member is loyal and overrides him. You have to consider whether if this be permitted the time will come when a majority of the Assembly will take this disloyal position. Such a course, if supported by the majority of the Assembly, would destroy the military organization of the State; would prevent the State from giving any assistance to the Federal government in war and by tending to destroy all military and naval defense, expose the State and Nation to destruction from its enemies without and within.

Assemblyman Cuvillier.—Which Assemblyman is that who introduced the bill to abolish the National Guard Reserve during the war?

Mr. Brown.—Claessens.

When there are no armies and navies, the flaming torch of the Socialist may more easily triumph—the time is getting late and I am going to hurry over my brief, so as to finish this evening.

The Chairman.—Take your time.

Mr. Brown.—The promise to oppose all military and naval appropriations, and appropriations for war, is a part of the plan

of the Socialist party to destroy the existing form of government and substitute the government of the proletariat. That is, they are for a revolution against every government that exists, including their own government. They would be for revolution in this country, even if it were not on their account, because it would give them the opportunity for all the stormy petrels who flourish on such disturbances in society and between nations. It means national suicide, and they advocate national suicide by taking this position.

Judge Weeks' remarks to the jury after the conviction of Gitlow are as follows:

"He took the oath as a member of the Assembly of this State to support the Constitution of the United States and of the State of New York. When he entered the Assembly he was fettered by that obligation of his organization, which provided that he should be driven from it if he voted for an appropriation for military purposes or the war.

"Was that only the entering wedge for the destruction of the nation, to prevent its appropriating money to save itself in war, to hamstring it? It certainly seems so. What protection would we have against war? The dreams of visionaries would not prove a very satisfactory defense against a foreign enemy. It may be that these dreams elevate in a sense like a drug that fills the brain with wonderful pictures—idealism without practicability. So long as we are on this mundane sphere the only way we can keep our feet on the ground is to stand on something substantial—to stand by the government. I hope the verdict will reach out and act as a deterrent to others."

There is but one inference from the position of the Socialists in relation to military and naval appropriations and for war. They would render the country and government helpless against all enemies so that it may be helpless against them, the enemies of established order. And for the opportunity which the helplessness of government thus brought about would give them, they are willing to expose the State to the assaults of all other enemies.

The votes of the Assemblymen in previous sessions where military appropriations were involved shows that the promise they made to their party was no idle promise and that they intended to execute it notwithstanding the oath they had taken.

On Senate Bill No. 271, January 9, 1918, entitled "An act to make available for the New York Guard certain moneys appropriated for the National Guard by chapter 181 of the Laws of 1917," the record shows that this bill was opposed by all of the Socialist Assemblymen, Mr. Claessens, Mr. Fiegenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Rosenberg, Mr. Orr, Mr. Waldman and Mr. Whitehorn (p. 571).

The general appropriation act in 1919, entitled "An act making appropriations for the support of the government" was voted against by Claessens and Solomon they being the only Assemblymen voting in the negative (pp. 572-573). This act contained appropriations for the National Guard.

"An act to amend the Education Law in relation to qualifications of teachers," in the 1918 Legislature contained a provision to exclude alien enemies from the teaching staff of this department of the State. The only votes in the negative on this bill were cast by the Socialists, Mr. Claessens, Mr. Fiegenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn" (pp. 573-574). When the same bill came over from the Senate, the only persons voting against it were Claessens and Solomon (p. 574).

The act to amend the Education Law in relation to physical training and the use of armories was opposed by only two votes in the Assembly in 1919 viz.: Claessens and Solomon (p. 575).

Claessens and Solomon were the only Assemblymen to vote against "An act to provide for the publication of the law relating to the desecration of the flag" (p. 575).

In 1919, Claessens and Solomon cast the only votes against an act to provide for paying members of the National Guard who served without the State in response to the call of the President of June 19, 1919 (pp. 575-576).

The only votes against the appropriation act for the support of the government of 1918 containing appropriations for the National Guard and National defense were recorded by the Socialist Assemblymen, Mr. Claessens, Mr. Fiegenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn (p. 576).

On January 21, 1919, Claessens introduced a bill to repeal the State police laws (pp. 613-614).

If a majority of the Assembly had concurred with the Socialist Assemblymen in their votes, the military and naval organiza-

tions of the State would have been destroyed. If a majority of either House of Congress was controlled by the Socialists under the same pledge, the military and naval organizations of the United States would be destroyed.

The same Assemblymen cast the only votes against the act relating to the military training of boys in 1918 (pp. 576-577).

The same Assemblyman cast the only votes against the act "To provide for requisitioning the labor of able-bodied persons between the ages of 18 and 60 years who are not engaged in a lawful and useful business, occupation, trade or profession" (p. 577), and the same Assemblymen cast the only votes against "An act to provide for paying members of the National Guard who served without the State under the call of the Federal Government" (pp. 577-578).

Claessens out-stripped all of his associates in carrying out his promise to his party. He not only voted against all legislation providing for military or naval appropriations for war, but he introduced much affirmative legislation of an offensive character.

On January 29, 1919, Claessens introduced "An act to amend the military law in relation to the reserve militia" which repealed chapter 568 of the Laws of 1916, embracing the entire statutes relating to the militia of the State of New York (p. 612).

On February 14, 1919, Claessens introduced a bill "To amend the executive law and the public officers law in relation to the employment of the state militia, national guard or state police to suppress strikes, walkouts or other national disputes" prohibiting their employment (pp. 613-4).

On January 9, 1919, Claessens introduced a bill to repeal chapter 566 of the Laws of 1916, being the law in relation to military training in the State of New York (p. 613).

On January 20, 1919, Claessens introduced a bill to repeal Chapter 470 of the Laws of 1918 in relation to the military training of boys (p. 613).

Now, you are familiar with the arts of counsel in trying a case, where there are so many items of proof and so many issues, of selecting some minor issue, some minor matter, and then demonstrating that judgment cannot go against them on that account and then celebrating their victory upon the main issue. Triumphs of this kind are short lived.

I remember the eloquent remark of Mr. Hillquit with relation to the right to introduce bills in the Assembly. The right to introduce bills in the Assembly is not questioned. The right of

these members to introduce bills in the Assembly is not questioned. The five Assemblymen are not questioned even here for the introduction of those bills. Those bills were introduced here to show that these Socialists when they get into a parliamentary body mean what they say and attempt to carry out their program and as an evidence of their belief in what they say in their platform and of their attempt to carry out their platform as far as they can. That is what those bills are introduced for. They are not crimes in themselves. Nobody questions their right to introduce them, and nobody can question your right to draw your own inference from their introducing them as to what they meant. Nobody can prevent you from drawing that inference. They had a right to vote, on Lincoln's Day, against the Abraham Lincoln resolution; and they come here and tell you that they voted against it because it declared that the slaves were freed through the instrumentality of war and they may tell you that if they like. In the Assembly they may vote as they see fit, but you may draw such inferences from their so voting as to their actual adherence to their platform as the facts justify.

The five Assemblymen also disqualified themselves from taking the oath of office by promising to abdicate their office to the dues paying members of their organization or their executive committee, as the condition of their election. They promised to faithfully discharge the duties of the office of Assemblymen according to the best of their ability, and stated that they had not made any promise to influence the giving or withholding of any such vote for their election.

Now, I wish to discuss this and for the purpose of saving time in relation to it,—

The Chairman.— Do you want ten minutes recess.

Mr. Brown.— No, not yet.

The Chairman.— Well, when you do just say so.

Mr. Brown.— I will finish this. Those provisions are as follows — I will be very brief about it:

“ In all legislative bodies, as Congress, State legislatures, boards of supervisors or town councils, Socialist Party members shall organize into a group separate and apart from all other parties. They shall elect a chairman and in the support of all measures definitely declared for in the platforms of the party, they shall vote as a unit.”

There is a rule in the constitution providing that elected socialist officials shall submit the name of any proposed, or contemplated, appointment for approval of their party authorities, either the dues-paying members or to the executive committee and shall vote on all measures as thus directed; and when there is a failure to comply with these provisions, they shall be expelled from the party. And there is a provision that the members of their party shall give a resignation—sign a resignation—before they become candidates or at the time of becoming candidates, of the party which may be used by the party if they are dissatisfied with their conduct when they are in office. You will remember in relation to that what a dead letter it was; how little it amounted to in the party until the letter of Adolph Germer, the Executive Secretary, in 1916, appeared. They declared it had not been used for years when they were confronted with a letter of the Executive Secretary of the Socialist Party saying that it was in force and asking that it be universally observed.

The Chairman.—Is that letter in evidence?

Mr. Brown.—Yes, Adolph Germer's letter. I have a reference to it here. It is in evidence.

Mr. Sutherland.—Part of it was read to the witness.

Mr. Brown.—Yes. Now, they claim to be a party but there is no identity between the Socialist Party and the dues-paying members. That was thoroughly demonstrated and it was shown that while they received thousands of votes in some districts, the dues-paying membership only amounted to from two to four hundred in the entire district—I think four hundred—being beyond perhaps the membership of any individual district. How many districts are there in the Bronx?

Assemblyman Cu villier.—Six.

Assemblyman Evans.—Eight.

Mr. Brown.—Eight, and twelve hundred dues-paying members.

Now, by giving their assent to these proposals and coming to the Assembly, they abdicated their functions of office and made themselves ineligible to seats here, and disqualified themselves from taking the constitutional oath of office, first, by their promise to subordinate their conscience and patriotism on every vote in the Assembly to the block system of party voting no matter how

destructive of good morals such vote might be and this promise was in direct violation of both provisions of the oath quoted. The promise has been kept by the Socialist party in the Assembly in former sessions (p. 167).

Now, Mr. Chairman and gentlemen of the committee, I am a party man. I am a reasonably strong party man. I believe that it is better to act with your party unless there are very commanding reasons why you should not. You are all party men and I notice the appeal that was made to you by Mr. Hillquit glorifying government by party and explaining how you must act with your party and could not act otherwise. Gentlemen of the committee, there is something above party. I do not believe I am looking in the face of any representative who sits here who thinks that the party is above conscience or that party is above patriotism. If I do, I hope he will correct his ideas. This agreement must not be confused with a party caucus system where the right to withdraw from the caucus or not to enter the caucus is universally recognized and treated kindly if actually done with conscientious purposes or patriotic purposes. But whether treated kindly or not, that man in this country who places party above country does not understand his obligation to his country. And it was because somebody might at some time say that he had some obligation that was superior to his country; that was superior to the constitution of the United States and superior to the constitution of the State of New York, that the constitution of the State of New York requires that before you take a seat in this body, you swear to sustain them.

You do not swear to sustain a party. You do not swear to put your party above your country, and you do not swear to put your conscience beneath a party. You are men. You are American citizens. You may die members of the party that you are now in, and you may change that party when the time comes, if it ever comes, when, in your judgment, it does not stand for your country. You are Assemblymen. You not only have the implied obligation of every citizen to support the constitution of the State of New York and the Constitution of the United States — and, if you be a naturalized citizen, the express obligation which you took when you became a citizen — but you have the oath which you took when you started in to serve the State and the nation, so far as it is related to the State, to the best of your ability.

I despise that kind of party loyalty which places party above conscience or above country. There is no room in this country

for such a party and yet parties are useful in their own proper spheres; but I reject, with all the indignation of my personality, the assumption that 150 men who sit in this Assembly place their country beneath their party.

The Socialist Party position has been declared to be illegal. It was declared to be illegal as long ago as 1787, in the first of Blackstone, 327. It was declared to be illegal in the matter of Guden, 171 N. Y. 529.

Now, it was illegal to promise to resign. There have been persons at various times in the history of the country who have made an agreement to abdicate their office. One such, in 1884, agreed to abdicate an office in the City of New York, to a man who used his influence to get him appointed, and the court decided that he could not hold his office — that he was guilty of conspiracy — and they convicted him.

Now, the Socialist Party seeks to escape the consequence of these crimes by saying, "Nothing was done;" that while they agreed to resign, they did not; and that while they agreed to be controlled by the dues-paying party, or by the executive committee, it was not employed except in one case, namely, to submit to a referendum the question of prohibition. Nothing could be cunninger than that. A good many people think it ought to have been submitted to a referendum, and they thought that would appeal to a great many people who were dry. But I have no confidence in their testimony upon the point. It comes under the class of testimony that I have already previously described, as convicting them out of their own mouths. But whether they actually practiced what they agreed to or not is not the question. The question is whether they agreed to it; and it has been held from time out of mind that the effect of making such an agreement could not be escaped because their conduct subsequently was innocuous. It is the tendency of it. That is the fault in the eye of the law.

Now, I come to the oath of naturalization. The five Assemblymen who were naturalized declared on oath that they would support the Constitution of the United States, support and defend the Constitution and laws of the United States — I guess we had better have ten minutes.

Mr. Sutherland.—The case referred to by Mr. Brown earlier in the afternoon is *Rogers v. the Common Council of the City of Buffalo*, 123 N. Y. 173.

The Chairman.—We will take a recess for ten minutes.

(Whereupon at 5:30 P. M. a recess of ten minutes was declared.)

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### AFTER RECESS

Mr. Brown.—Mr. Chairman and gentlemen of the Committee: Those of the five Assemblymen who were naturalized declared on oath that they would “support the Constitution of the United States . . . and support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same.” These men placed themselves in no exceptional relation to the country by taking this oath. They assumed only the obligation resting upon every citizen. But unlike native-born citizens, they were required as a condition of citizenship to expressly assume the obligation belonging to citizens. How they performed it appears from the record. The two candidates who were naturalized signed a pledge not to enlist or to approve of the enlistment of anybody else. Their attempt to belittle this pledge was only significant of their general position. All of them unite with their party in opposing the war, in resisting conscription, in advocating the repudiation of debts and the general strike and in planning to overthrow our government for the purpose of establishing a proletariat regime. It isn’t argued that Waldman and Claessens are more disloyal on this account than Solomon or the other two Assemblymen who didn’t have the courage to face the committeemen on the stand. While Solomon had not taken this oath the obligation of citizenship rested upon him as it did upon Orr and deWitt and their disloyal purpose is fully shown. Solomon felicitated Oneal on his disloyal speech. The greater includes the less, and those who subscribed to these treasonable platforms have done the greater and those who have done acts in support of those platforms have done the less and the less may be used in construction of the greater.

Mr. Chairman, I desire to call your attention very briefly to two other provisions of the Constitution of the United States: “The Senators and Representatives before mentioned,” that is, of the United States, “and the members of the several State Legislatures and others shall be bound by oath or affirmation to support this Constitution.” Why? Because the functions of the Fed-

eral government are largely discharged through the local legislatures. The members of Congress do not have to take an oath to support the State Constitution of the State from which they come, or the State Constitutions of the various States, but the members of the Legislatures are required by the Constitution of the United States to take the oath to support the Constitution of the United States, before they can have a seat in this body.

Section 4 of Article 14 of the Constitution of the United States provides: "The validity of the public debt of the United States authorized by law, including debts incurred for payments of pensions, \* \* \* shall not be questioned."

The validity of the public debt of the United States authorized by law shall not be questioned. That is, the faith and credit of the United States shall never be questioned. How can a member of the Socialist party who subscribes to the platform still in force, enacted in 1917 in favor of the repudiation of war debts, take an oath to support the Constitution of the United States? A man who doesn't pay his debts when he can has the contempt of society. The nation which doesn't pay its debts has the contempt of its own people and the contempt of the world. And it was to avoid placing the United States in contempt with its own citizens and with the people of the world that this amendment was inserted in the Constitution, but notwithstanding that provision of the Constitution the Socialist party took this position and adhered to it. For while they suppressed the further publication of the provision, they suppressed it because of the Espionage Act but they never repealed it. They said they repealed the sabotage clause because it was out of date. That is, it was out of date at a time when its exercise would be more dangerous to the country than ever before, but this clause was not repealed.

But they cannot say that the repudiation of war debts was out of date, and yet with the effrontery which characterizes their entire program of destruction and iconoclasm, Mr. Hillquit comes before you and advocates it in his final appeal to you to permit these men who have subscribed to this disloyal sentiment to be admitted as members of this body.

There is some solemnity to an oath. It has been said that it is the greatest pledge of faith among men. All civilized nations have employed it for the protection of the State, and for the prevention, so far as possible, of perjury in private disputes.

The Romans invoked the heaven gods to destroy the Roman people if they broke their oath. The laws of the land provide prison bars for perjurers. In Greek mythology the sanction of an oath was in keeping of the furies. The sanction of the oath rests with the authorities in heaven; with the authorities on earth and with the authorities in hell; but these men, defying all the authorities known or conceived of in any philosophy, appear here and ask you to accept them as fit associates to sit here and legislate for the welfare of this great State.

It was said by a great jurist in the 18th century "that no country can subsist a twelfth month where an oath is not binding, for the want of it must necessarily dissolve society," that is, where the most solemn promise that can be given by man has no sanction organized society cannot exist, and Lysurgus says, "An oath is the bond which keeps the State together." These men seek to excuse their evasions and violations of their oath on the plea of liberty,—liberty, in whose name so many crimes have been committed, crimes sought to be repeated by the Socialist Party.

The Socialist Party have rendered themselves amenable to the terms of the Espionage Act. The Espionage Act, among other provisions, provides as follows:

"Causing or attempting to cause insurrection, disloyalty, mutiny or refusal of duty in the military and naval forces; obstructions of enlistments and recruiting. Assent of doing anything with intent to obstruct the sale of United States bonds, uttering, printing, writing or publishing any disloyal, profane, scurrilous or abusive language, or language intended to cause contempt, scorn, contumely or disloyalty as regards the form of government of the United States, the Constitution, or the flag, or the uniform of the army or navy, or any language intended to incite resistance to the United States or promote the cause of its enemies; urging any curtailment of productions of any things necessary to the prosecution of the war with intent to hinder its prosecution; advocating, teaching, defending or suggesting the doing of any of these acts."

Conviction under the Espionage Act is not essential to the exclusion of these Assemblymen. The rule laid down by the committee in the Smoot case is applicable. "If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation or its government, he

is regarded as being unfit to perform the important and confidential duties of a Senator, and may be deprived of his seat in the Senate, although he may have done no act of which a court of justice could take cognizance."

It was not necessary that these men should be convicted under the Espionage Act for you to exclude them. If you look at the record in the Berger case you will find that the House of Representatives distinctly declined to accept the verdict of the jury that Berger was guilty as a basis of excluding him, and said that they used the record of that trial only for convenience in getting at the evidence; and why? Because even though Berger was acquitted he might have placed himself in a position by the acts that he had committed where the House felt that he was not a fit representative, although not convicted, and the reason for it is plain. The House is the supreme judge as to whether he has committed acts that should lead them to exclude him. They are not dependent upon the judgment of the court. The judgment of the court might have been rendered, and might have been reversed. The judgment of the court might have been secured by a miscarriage of justice. There might have been any number of circumstances involving the lack of suitable prosecution. There might possibly, in an exceptional case, have been a fault upon the part of the court itself in holding that the facts did not establish guilt, when in fact they did or the reverse. It was because of this that the House declined to accept the verdict of guilty.

They would not acknowledge, for an instant, that they were not the supreme judge of the acts that were questioned; because, under the Constitution, they and they alone could say whether or not he should be admitted, and if it be possible to conceive it under our jurisprudence, a man might be convicted of a crime unjustly, and if convicted unjustly, the House of Representatives were at liberty to so determine and receive him. The power is yours and does not belong to any court. It is therefore clear that the suggestions that have been made that you should not exclude these men on the ground of expediency until they had been tried and convicted is not a sound proposal. It is not in accordance with the Constitution. You cannot delegate even to the courts of the land the determination of the question as to whether or not the candidate is fit to sit in your midst.

Assemblyman Evans.—Wasn't Mr. Berger excluded under a specific provision of article 14 of the Constitution of the United States?

Mr. Brown.— That was mentioned as one. He was excluded because he was a traitor. If a man be excluded because he is a traitor it does not add any to it to find that he is guilty of a smaller and lesser offense. You can read the report.

Assemblyman Cuvillier.— The larger includes the smaller.

Mr. Brown.— Not in that case. It is added to it. The Socialist Party has been heretofore permitted to exercise the privileges of a political party, and Socialist members permitted to sit in this Assembly, and that is presented as a reason of expediency why these men should be admitted now. Why, gentlemen of the committee, the facts that have been developed upon this trial are the amazement of the entire republic. We are a busy people, confident in the general good purpose of all the citizens of the country. We are loath to believe, when we read in the paper that some individual has been guilty of saying something that was disloyal to the country, and we treat it as negligible. Now, the facts are known. The light shines in upon the dark places. The fierce glare of war, a sacrifice of thousands of our citizens has aroused the conscience and judgment of our people and has called your attention to the real facts of the case. There may have been an indefinite feeling in the past from some isolated case which came to the attention of the Assembly or the people of the State, that it was doubtful if these men should be permitted to sit here; but not until this trial did I know or had any conception of the facts in relation to the case. And I wish to say to you, and make the acknowledgment, that when I reluctantly consented to act as counsel in the case I came with the fear that when I investigated the case I should be of the opinion that a wrong procedure had been adopted in suspending the members before the facts were found. And I came with the fear that the evidence would fall short of proving that these men were guilty of disloyalty and an error of judgment committed. I have been persuaded myself, and while I do not think it is proper in a private litigation for counsel to state that he, himself has a personal belief upon which the jury should act, I do not regard myself here as addressing a jury in a contest between parties. I am here to advise you as a citizen before I advise you as counsel, and I make the confession that I was ignorant of the subject, and ask you to believe what I say when I tell you I have changed my mind upon these issues completely.

It is suggested as another objection from expediency, that

if these men are expelled they will be re-elected and an increased Socialist vote will be given. That is, you are warned that if you throw traitors out of this House it will be discovered that they have traitorous constituencies, and that more traitors will be added to them because you have performed your solemn duty. Well, gentlemen, Berger was re-elected, but he was peremptorily thrown out, and he will be peremptorily thrown into prison. If he had a disloyal constituency it was the duty of the country to suppress it. I deny that at heart there is a disloyal constituency in the State of New York, but if there is a disloyal constituency in the State of New York the representatives of loyal constituencies will never bow the knee to them.

It was said before the great rebellion that if Lincoln was elected President of the United States there would be rebellion, but he was elected by the loyal people of the United States and the disloyal people said, it will only increase our numbers and they brought it to issue, and the issue was tried out and the country was saved; and I wish to call your attention in this particular to the suggestion made by Mr. Hillquit frequently and by others upon the stand in their ridiculous pretention that the revolution they refer to will be the rebellion of the minority after the majority has succeeded in changing the form of government, that the rebellion was a rebellion of the minority against the clear majority of the people of the country, just the same as the rebellion planned by the Socialists in this case is a rebellion by the minority just as quick as it thinks it can whip the majority. No wasted efforts, but as soon as they can accomplish their purpose just as the South thought that it could accomplish its purpose.

We are not afraid. The Assembly is not afraid. The people of the State are not afraid that there will be such an ebullition of disloyalty in any section of the State as to imperil the State. If any such condition exists, the quicker it is disclosed the better, for it involves not only rebellion against the State of New York, but it involves rebellion against the Union, and when the loyal citizens of this country from one ocean to another learn of it, its fate will be sealed.

What is patriotism anyway? What does it consist of? Does it consist, as Morris Hillquit says, of expressing on numerous occasions our interest in the wellbeing of the people of the United States without ever uttering a single word in favor of the Constitution of the United States, in favor of the Constitution of the

State of New York, in favor of our established government, or in favor of the cause of the Republic when it is in the throes of war? If it does, then these men are patriots and their understanding of patriotism is right and ours is wrong.

Socrates was referred to by one of the Socialist speakers as authority for the position which they had taken; but Socrates said that a man could no more strike his country than he could strike his father or mother; and his loyalty went so far that when he was unjustly condemned through the machinations of his enemies, to drink the fatal hemlock and had an opportunity to escape, he declined to escape, saying: "This is my country and I submit to its decrees even if it involves my death."

Patriotism is a sacred thing, sealed in the blood of every American generation from the Pioneers who established these colonies, the fathers of the Republic; those who defended its honor in every war that we have had since; those who defended it against internal enemies and those who defended it against the unjustifiable assaults of Germany.

I have been brought up on a literature to which all this prattle is a stranger. I remember that there is a poem reading:

"Lives there a man with soul so dead,  
Who never to himself hath said,  
'This is my own, my native land!'"

It does not read very well when placed beside the literature of the Socialist party, that cares nothing about the boundaries of a country; that cares nothing about any of the people of the country except the proletariat; that does not believe in our government and wants to overthrow it; that gives allegiance to a world proletariat which seeks the destruction of our government and the destruction of all classes except itself.

The test for office, gentlemen, in this State and nation is a simple one, that no loyal man should have the slightest difficulty in complying with. The State requires very little in the way of qualifications of those elected to office. The requirements are few and simple, and it is with only one of these that we are concerned in this proceeding. The Constitution only requires that an oath be taken to support the Constitution. The Legislature did not prescribe the oath. It is the fundamental law stated by the people themselves and initiated by them for their protection to secure the support of their organic law. If a man cannot comply with its requirements, he cannot be permitted to sit in this

body. The people of this State have declared that if he cannot comply with it — and from time to time it has been declared — the Legislature may not permit him to sit in the lawmaking body, because he cannot sit here until he takes his oath, and the oath is the most sacred of the pledges among men. He should not be permitted to take it when it is known that he does not intend to carry it out. It is the duty of this Assembly to protect their membership in order to deserve the confidence of the people of the State. This is not merely a trifling matter. If your judgment shall be that these men are entitled to sit in this Assembly, what lesson will you instill in the loyal people of the State of New York? If these men may sit in this Assembly, with their disloyal purposes established beyond controversy, what must a man do which will cause you to prevent him from sitting here, which will lead you to exclude him? Is it of no importance that your judgment be right? What think you of its effect upon the free institutions of this State and of the country, that you permit disloyal men to sit here and be advertised to the people of the State as making laws for the people of the State?

No more disorganizing a force could be conceived. It means weakening the patriotic fibre of every patriotic man.

I have dwelt upon the obligation of these Assemblymen, violated obligations — of their oaths and of their citizenship, which is as strong without their oaths as it is with it. You are bound by that obligation as well as they. You cannot pass upon their obligation if you do not assume the full obligation yourselves. You have sworn to support the Constitution of the State of New York and the Constitution of the United States. Think you that a man can take an oath to support the Constitution of the State of New York and the Constitution of the United States and permit, when he has the power to prevent, traitors to sit in this body.

Nothing was said by counsel for the defense, I think, or very little, in relation to the difference in the situation of the three Assemblymen who have made specifically disloyal and contemptible utterances, which were presented to you. It was thought by some that they are in a worse position than the two Assemblymen who said nothing. If five of us had been tied together by an agreement and three of us were completely exposed in detail and the two of us sat by when it was proved that what was done was under an agreement, and kept still, although we had an opportunity, to clear ourselves, what would be the inevitable infer-

ence? The only inference is the natural presumption of the common law, that our silence proved that we could not improve our position by being sworn.

It is admitted that these men subscribed to the tenets of the Socialist Party. That is in the record. What the Socialist Party did furnishes the burden and gravamen of the charge against all of them. What was done by individuals only goes to support that charge, and if what they did had not been done in pursuance of the disloyal purposes of the party, they would be comparatively harmless and it would be of minor importance what your judgment might be.

I desire to call your attention to the necessity of exercising in this case judicial care. I would not have anything done in my country impairing in the remotest degree representative government; or affecting adversely in the remotest degree any individuals or reflecting upon any constituency of the state, unless it was done judicially and with care. The fear was expressed by Mr. Hillquit that your judgment might be controlled by expediency. Whether your judgment would help the Republican party or hurt it; whether your judgment will help the Democratic party or hurt it; even if your judgment would help the Socialist Party, I implore you, I beg of you to render as just judgment as in you lies. And that when you have reached a conclusion of what the facts are and of the law that is applicable thereto, you do not allow the slightest element of expediency to intervene to prevent you from doing your duty. You are sworn and chosen men and the appeal I make to you I extend through you to the Assembly.

The question is, which flag do you follow? Do you follow the red flag of anarchy now suppressed by law which these men would, if they could, parade in every street in every city of the land, or do you follow the Stars and Stripes?

Gentlemen, your judgment will be a great judgment. Let it be a just one. (Applause)

The Chairman.—Mr. Block I will hear you for fifteen minutes.

Mr. Block.—Mr. Chairman and gentlemen of the committee. What I have to say will take but a very few minutes, I think. I will not attempt to discuss the address of Senator Brown. I think that practically all of what he has said has been effectively

and substantially answered by my colleagues, Mr. Hillquit and Mr. Stedman.

Just one thing I propose to allude to and that is what he said, this word which has been mouthed and branded around day after day, this word "Disloyalty." Again I say that we as Socialists are not here to judge of your loyalty, whether you are Democrats or Republicans and there is no law of this land or state that gives you the right or power to judge what is our disloyalty or loyalty. That term is not defined in the Constitution of the United States; it is not defined in the Constitution of the State of New York or any of the statutes of the State of New York or the Federal statutes. That is a matter of opinion. I may be disloyal in the opinion of one of you and you may be disloyal in the opinion of myself. A group of Socialist legislators introducing a bill in the legislature to abrogate military training in public schools, to stop training the youth of the country to the idea of war, may be regarded as disloyal by Republicans and Democrats. And just as the women and children of this country, the health and welfare of the women and children of the country is necessary to a successful, to a real patriotism, so we as socialists might brand as disloyal any group of men who introduce into a legislature a bill to force young children to work in canning establishments in the state of New York under conditions that would be intolerable in any civilized country. But we say of the men who sponsor those bills, we don't brand them as disloyal. I think myself they are a thousand times more disloyal than these five Socialists against whom not one act of disloyalty has been proven. I feel it necessary to express just a word on that subject because it is supreme arrogance for any person to come here and attack the loyalty or disloyalty of another group of people with whom he doesn't happen to agree.

Fortunately, gentlemen, this proceeding, closing today, closes on a day when a rather strange coincidence has occurred, which bears a fairly close connection with the proceeding now before you. Senator Brown has said that Victor Berger will be peremptorily thrown into jail. I am not so sure of that. Victor Berger's case is pending before the United States Circuit Court of Appeals and today—and this is the hopeful note that I am glad to say that this proceeding closes upon—the United States Circuit Court of Appeals has reversed and set aside the conviction of Rose Pastor Stokes. The record of the Rose Pastor Stokes case has been made so much of in this case along with the others.

Just remember that the United States Circuit Court of Appeals has reversed and set it aside. What will be done in the Berger case we don't know. What will be done in that single conviction of the Rand School referred to here as a fountain of poison and what not, whose streams trickle everywhere and poison the body politic, the Rand School conviction is pending before the United States Circuit Court of Appeals and in that case I make so bold as to venture to predict that there is a strong probability that that conviction will be reversed. The light is breaking through the clouds. We are getting away from the ignorance, from the hysteria that has been controlling this country and we are beginning to assume a normal, sane attitude toward the affairs of life.

Now, in this case I think the issue is so simple that the school boy who has taken a brief or elementary course in civics and has read the Constitution of the United States and of the State of New York can decide this case. True, we are going to submit a brief and it will contain a rather full exposition of authorities closely pertinent, and some, perhaps, not closely pertinent, but having a historic interest. But the real legal side of this case is so compelling that you cannot get away from it. Senator Brown tried to get away from it, and he talked about the Decker case. Gentlemen of this Committee, the Decker case is a thing you cannot get away from, you cannot escape, you cannot avoid, if you are going to follow the Constitution of the State of New York, and if you are going to follow your own precedent. Senator Brown said the decision of the Judiciary Committee of 1918, and the unanimous decision of the Assembly approving that decision, was merely an arbiter, that it, it is not in finding something that is the rule of any rule. You men, you, as lawyers, know that is not so. The chairman of this Committee served on the committee in the Decker case, and he knows, and we all know as lawyers and laymen that is not so. The rule is fundamental as expressed in that case, and that is that only the disqualifications which are expressly enumerated in the Constitution of the State of New York can bar a duly elected representative from his seat in this Assembly. Article 3, section 8, of the Constitution of the State of New York sets forth those disqualifications, and only those will disqualify anybody, and you cannot add one word to that; one disqualification to that. That is your decision in the Decker case. Either you are going to disregard your decision completely, and say what is good for a Democrat is not good for a Socialist, or you are going to say, and that

you must consistently, stick to your decision; and although you may disagree, although you may criticize, although you may even condemn, these men are entitled to their seats.

Let me call your attention to one thing more. We have it not only in this Assembly, but we even have it on record as a decision in the highest court of the State of New York, going so far back as 1824, in the case of Barker against the People, reported in the Third of Cowan's Reports, and in that case the principle was clearly enunciated, and which has been followed from time and time again in more recent decisions in the New York Court of Appeals, that the Legislature cannot add any disqualifications to those provided for in the State Constitution, no matter what the occasion may be.

Assemblyman Cuvillier.— What were the facts in that case?

Mr. Block.— The facts in the case of Barker against the People were these: This man was convicted under a penal law of the State of New York against duelling. In those days they fought duels, and the law put a stop to it, and there was a penal statute forbidding duelling, which carried with it, in case of conviction, a disqualification from holding public office in the State of New York, and the Court of Errors, the highest court in the State, presided over by Chancellor Sandford, and in which the Senate of the State of New York participated — I believe nineteen or twenty Senators — decided that case holding that the imposition of a disqualification for holding office after conviction of crime was perfectly constitutional, and only a conviction of crime and the disqualifications enumerated in the Constitution can disqualify anybody from membership in the Assembly if he has been duly elected.

Assemblyman Cuvillier.— We have still that disqualification in the Southern States, you know.

Mr. Block.— I am not familiar with all of them, but I know there are not only anti-duelling statutes, but other penal laws in our own State which carry with it, in case of conviction, the non-holding of office.

Assemblyman Cuvillier.— But they have on the test oath.

Mr. Block.— This is a disqualification of crime, something separate from the test oath; and on this question, by no other test, the Court of Appeals has also ruled — we have no time to go fully

into that, but we will show you that on our brief. Just briefly, let me refer to the decision in case you want to look at it sooner, the case of Rathbone against Wolf, 150 New York 459, the Court of Appeals held that you cannot impose any additional test for disqualification.

Mr. Berger.— Does that refer to the legislator or another official, Mr. Block?

Mr. Block.— That referred to another official, but the principle was there enunciated as follows: "It cannot be doubted that they"—referring to certain provisions—"are broad enough in their terms"—and they were in fact intended to prevent enactment of laws preventing any class of citizens holding office by reason of political opinions or party affiliations. You cannot even enact a law, this Court says, much less pronounce a judgment in the absence of the law which acts contrary to the Constitution.

I want in passing just to refer to one thing here. Senator Brown seemed to bewail and bemoan the fact that we did not have twenty-four hundred of August Claessens speeches here to deliver. I am sure, if you want to sit another year, we will be only too glad to mail you a copy of the twenty-four hundred speeches—if you want them. He said all they were able to find was the one speech, to which we take exception. That is strange. They must have all of them in their records. You know and every child in this country knows that the Department of Justice, equipped with the most wonderful force of detectives and secret service men and stenographers, and with the resources at their command, have been going into every nook and cranny searching for seditious utterances. Whenever they suspected a socialist was going to make a speech they were there and listenening. Some were there whom you could not detect, and some who came with their notebooks and took notes. They knew that although August Claessens made twenty-four hundred speeches they had nothing to fear as far as the violation of the law was concerned.

Let me refer you to one authority that you regard as a higher authority than I do, for I take exception to many things he has done in his career. Because I think he has made many grievous mistakes, and that authority is the head of the Department of Justice in this country, A. Mitchell Palmer, Attorney General of the United States. That man more than anybody else perhaps ought to know what is going on in this country with reference to sedition and treason and whatnot. In a letter written—and this

is a certified copy signed by Mr. Palmer himself, dated January 22d, 1920, addressed to Francis Fisher Kane, United States attorney at Philadelphia, who recently resigned, Attorney-General Palmer made the following statement. I will not go into the whole letter. I disagree with substantial parts of it. I make this statement unequivocally: "The Socialist Party of America is pledged to the accomplishment of changes in the government by lawful and rightful means." A. Mitchell Palmer, Attorney General of the United States of America, made that declaration, gentlemen. I wish I had time to take up a few of the things Senator Brown said. I have been graciously allowed a few minutes and I do not want to infringe because of the lateness of time. In closing, let me repeat, perhaps slightly different from what Mr. Brown has said to you — he said that you, the members of the Assembly, have taken an oath to support the Constitution and you will be violating that oath if you seat these five Socialists. I disagree with that. I think you will be violating that oath if you fail to seat them. You have sworn to support the Constitution. The Constitution says that only persons who come within the constitutional disqualification shall be barred from their seats. You must keep within the Constitution just as the five Socialists and all of the members of the Socialist Party must keep within the Constitution. The obligation rests upon you just as it does upon them. Those of you who are lawyers, perhaps as to you it may rest with a double emphasis, because, I believe, if I do not recall incorrectly, that when we were admitted to practice as lawyers, we were also obliged to swear to uphold the Constitution of the State of New York and the Constitution of the United States, so you are under a double oath, but one ought to be enough. The provisions of that oath carry all your obligations. It is clear. You cannot get away from it. Your obligation is so manifest that it requires no argument to emphasize it. All of this beautiful exposition we have had for seven weeks about Socialism, about Russia, about internationalism, about the internationale, that has all been interesting, illuminating, instructive, but fundamentally it has absolutely nothing to do with the case. The case is, do these men disqualify themselves under the Constitution? Has any one of them been convicted of a crime? If not, and if they are citizens of the country, residents of the State of New York, over twenty-one years of age, they are entitled to their seats. That is all there is to it, and I feel that you gentlemen in giving this case your attention, that just as they took

an oath to support the Constitution, you also did, and in the proper fulfilment of that oath there is nothing to do but to put an end to this proceeding and show, just as the United States Circuit Court of Appeals shows today, there is still reason in this country and we are, perhaps slowly but none the less true, getting away from this hysteria that has swept the country.

Assemblyman Cuvillier.—How about the United States court in yesterday affirming the conviction of the three men from Albany County?

Mr. Block.—Perhaps there may have been some reason for affirming. I want to thank you on behalf of myself and my colleagues and the five Assemblymen for the extreme courteous and intelligent attention that you have at all times given to this case. I hope when we meet again it will be under most auspicious circumstances.

Mr. Conboy.—Mr. Chairman before we adjourn, there is the matter of the submission of briefs. It has seemed to counsel for the Assembly that the arguments placed every morning upon the desks of the members of the Committee were a full and complete exposition of the law and the fact, and it has therefore not been our intention to submit any supplementary brief, and no such supplementary brief has been prepared. Of course, if a brief has been prepared on behalf of these five Assemblymen, I assume that the Committee will receive it.

Mr. Block.—I wish to say in response to that, that the brief is not entirely completed, as I believe Mr. Roe mentioned earlier in the day. We expect to have it in the hands of the printer tomorrow and perhaps the finish printed copy will be ready the following day. We hope that they will have it on Thursday.

The Chairman.—Get it in the hands of the counsel for the Committee on Thursday and then you may have until Tuesday to reply. We will take this matter up Tuesday.

Mr. Conboy.—It will depend a good deal as to what time on Thursday it is placed in our hands, and the length of the brief. How long is it, Mr. Block, have you any idea?

Mr. Block.—I haven't any idea. I may say we are trying to show as much consideration to the persons called upon to read it as possible by keeping it down to the smallest possible number of pages.

**Mr. Conboy.**— I am not so sure that we can get a reply memorandum into your hands by Tuesday morning if we are served with a copy of this brief sometime late on Thursday. We have been put to it to prepare our arguments and submit them in as comprehensive a manner as we could within the time allotted to us after the closing of the case. Of course, we will do what we can to prepare the reply memorandum in as short a time as possible.

**The Chairman.**— I will take it Wednesday. I assume you will not have to reply to anything but new matter.

**Mr. Conboy.**— As a replying brief it will not be incumbent upon us to assume any new or constructive argument.

**Mr. Block.**— Do I understand you are not submitting a brief now, but will only submit a reply brief to the one we submit?

**Mr. Conboy.**— That is right. We will only submit a reply brief to the one you submit.

**Mr. Block.**— We are extremely anxious to have it settled as early as possible. We wish a decision as early as possible and are anxious to have the brief submitted as soon as possible.

**Mr. Conboy.**— I had hoped it would be concluded with the arguments. The record of each one of these day's sessions has constituted a pamphlet longer than is usually submitted to the court. The facts have been discussed in a very comprehensive manner and the committee has heard the witnesses. Of course, however, if these Assemblymen and their counsel desire a brief; all right; but it will simply mean a delay.

**The Chairman.**— The counsel for this committee served a very comprehensive brief and Mr. Roe served a very comprehensive brief. Now, if there is anything else they wish to say—

**Mr. Conboy.**— We will put it in a reply brief.

**The Chairman.**— You will put it in a reply brief.

**Mr. Block.**— All that is in our brief is well known to the committee. It is merely a restatement. When will it be submitted?

**Mr. Conboy.**— It depends entirely upon the size and length of yours.

**Mr. Berger.**— About one hundred pages, Mr. Block?

Mr. Block.— It won't be over a hundred pages.

Mr. Conboy.— We will leave ourselves entirely in your hands, gentlemen. If you say we shall have a reply memorandum on Wednesday morning, we will have it on Wednesday morning.

The Chairman.— Wednesday after the session — about two o'clock.

Mr. Conboy.— We should have your printed brief on Thursday?

Mr. Block.— Of this week?

Mr. Conboy.— Of this week.

Mr. Block.— If the printer gets it out in time. We expect to put it in the printer's hands to-morrow morning. Then we will have copies of your brief?

Mr. Conboy.— I will furnish you with copies of our brief just as soon as it is printed, and if it is ready on Tuesday, we will submit it to the committee at that time. If it is not ready on Tuesday, we will submit it to the committee after the afternoon session. We will give it to you as soon as it is ready.

Mr. Block.— I do not think counsel on the other side will need so much time. If they get it on Thursday I do not think they will need until the following Wednesday to reply to it. They are already familiar with the facts. I think perhaps two days will be ample. If it could be hastened, I wish they would do so.

The Chairman.— I would like to have you give me a list of those various points.

Mr. Wolff.— I will give it to you to-morrow, Mr. Chairman.

(Whereupon at 6:50 p. m., the chairman declared the case closed.)

## BRIEF FOR THE SOCIALIST ASSEMBLYMEN

Before the Judiciary Committee of the Assembly of  
the State of New York

IN THE MATTER  
of  
The Investigation as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAERSENS, SAMUEL A. DEWITT,  
SAMUEL ORR, and CHARLES SOLO-  
MON to Seats in the Assembly.

### The Institution of Proceedings

At the general election held November 4, 1919, five Socialist candidates, Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon were elected to the Assembly from districts in New York city. The votes cast were as follows:

#### *Bronx — Third Assembly District:*

Samuel A. deWitt (Soc.).....	5,802
Robert S. Mullen (Dem.).....	4,163
William Wachtel (Rep.).....	3,984

#### *Bronx — Fourth Assembly District:*

Samuel Orr (Soc.).....	6,455
M. Baldwin Fertig (Dem.).....	4,509
George B. Loud (Rep.).....	2,915
Alma M. Ford (Pro.).....	60

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*Kings — Twenty-third Assembly District:*

Charles Solomon (Soc.).....	4,974
Walter R. Hart (Dem.).....	2,779
John F. Ricca (Rep.).....	3,128

*New York — Eighth Assembly District:*

Louis Waldman (Soc.).....	5,120
Herman Weiss (Rep. & Dem. Fusion)	5,010

*New York — Seventeenth Assembly District:*

August Claessens (Soc.).....	6,123
Joseph N. Schultz (Rep. & Dem. Fusion) .....	6,041
John W. Osterberg .....	38

Certificates of the election of Messrs. deWitt, Orr, Solomon, Waldman, and Claessens were duly filed.

On January 7, 1920, the Assembly convened for the session of 1920. The Socialist Assemblymen appeared before the Secretary of State and took the oath of office. No objection was interposed. They took the seats assigned to them in the Assembly Chamber, answered the roll call, nominated and voted for candidates for the offices of Speaker, Clerk, and Sergeant-at-Arms, and took part in the adoption of rules.

When the organization of the House had been completed, the Speaker, without notice or motion, directed the Sergeant-at-Arms to present the five Socialist Assemblymen before the bar of the House. The Sergeant-at-Arms did so. Thereupon, still with no motion

before the House, the Speaker addressed them as follows:

"You, who have been summoned before the Bar of this House, are seeking seats in this body,— you who have been elected on a platform that is absolutely inimical to the best interests of the State of New York and of the United States. That platform is the doctrine of the Socialist Party and provides that every person elected thereupon subscribes to the rules and regulations, principles and tactics, of that party." (p. 2053)

The Speaker then recited, and amplified with extracts from the Moscow Manifesto (as to which see Point VI of this brief), the charges contained in the resolution subsequently offered.

He concluded as follows:

"It is every citizen's right to have his day in court. If this House shall adopt a resolution declaring your seat herein vacant pending a hearing before a tribunal of this House, you will be given an opportunity to appear before such tribunal to prove your right to a seat in this legislative body, and upon the result of such hearing and the findings of the Assembly tribunal your right to participate in the actions of this body will be determined." (pp. 2045-55)

The following colloquy ensued:

"Mr. Claessens: Mr. Speaker, do I understand we have no rights until this body officially decides?"

Mr. Speaker: If the House so decides.

Mr. Waldman: Mr. Speaker.

Mr. Speaker: Mr. Waldman.

Mr. Waldman: According to the rules adopted by this body only a little while ago a member elected to this House can only be unseated when charges are filed against him and the Judiciary Committee reports on the situation and then action is taken by this House. Is it not true?

Mr. Speaker: The Chair rules that the Majority Leader be given an opportunity to present his resolution.

Mr. Adler: Mr. Speaker.

Mr. Speaker: The gentleman from Monroe, Mr. Adler.

Mr. Adler: I offer a privileged resolution and move its adoption." (p. 2055)

The resolution which was then read, after the "Whereas" clauses quoted in full on pages 8-10 of this brief, concluded as follows:

"Therefore, Be it resolved, that the said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr, and Charles Solomon, members of the Socialist Party, be and they hereby are denied seats in this Assembly pending the determination of their qualifications and eligibility to their respective seats, and be it further

"Resolved, That the investigation of the qualifications and eligibility of the said persons to their respective seats in this Assembly be and it hereby is referred to the Committee on Judiciary of the Assembly of the State of New York, to be hereafter appointed, and that the said Committee be empowered to adopt such rules of procedure as in its judgment it deems proper, and that said committee be further empowered to subpoena and exam-

ine witnesses and documentary evidence, and to report to this body its determinations as to the qualifications and eligibility of the said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr, and Charles Solomon, and each of them respectively to a seat in this Assembly." (p. 2057)

The stenographic transcript of the proceedings concludes as follows:

Mr. Speaker.— The question is upon the adoption of the resolution.

Mr. Waldman.— May I inquire whether it is not the rule of this House and the precedent of the State Legislature that when charges are filed against any member of this House the duly elected member is permitted to represent his district until the Judiciary Committee renders its decision and renders a report to the Legislature, whereupon the Legislature acts? Has that not been the precedent and is it not the rule?

Mr. Speaker.— In reply, the Constitution provides that the House is the sole judge of the qualifications of its members and it may or may not grant a hearing. It is the purpose in this case that you shall be given a day in court. The question occurs upon the adoption of the resolution.

Mr. Waldman.— Mr. Speaker, on a point of parliamentary inquiry, I want to find out if it is possible to move a reference of this resolution to a different committee other than the one named?

Mr. Speaker.— If the resolution is adopted it carries its own reference. The question is upon the adoption of the resolution; all in favor will say

aye, all opposed will signify by saying no. The clerk will call the roll.

(The Clerk proceeded to call the roll.)

Mr. Evans.—(Interrupting roll call) I ask to be excused from voting and briefly state my reasons.

Mr. Speaker.—Not on a resolution. How does the gentleman vote?

Mr. Evans.—I vote no.

(The Clerk continued the roll call.)

Mr. Speaker.—How does Mr. Waldman vote?

Mr. Waldman.—I refuse to vote.

(The Clerk completed the roll call.)

Mr. Speaker.—The Clerk will announce the result.

The Clerk.—Ayes 140, noes 6.

Mr. Waldman.—I rise on a point of personal privilege.

Mr. Speaker.—The gentleman who rises at this time has no privileges on the floor. The gentleman involved will please retire to the back of the rail.

(The Socialist members kept their seats.)

Mr. Speaker.—The sergeant-at-arms will request the gentlemen to retire.

(The sergeant-at-arms thereupon escorted the Socialist members to the rear of the Chamber.)

The Judiciary Committee was appointed later on the same day.

Proceedings before the Judiciary Committee commenced January 20, 1920, and continued until March 9, 1920.

A committee, consisting of Charles Evans Hughes, Morgan J. O'Brien, Louis Marshall, Joseph M. Proskauer and Ogden L. Mills was appointed by the Bar Association of New York City

"to appear before the Assembly or its Judiciary Committee and take such action as may, in their judgment, be necessary to safeguard and protect the principles of representative government guaranteed by the constitution, which are involved in the proceeding now pending."

This Committee presented itself at the outset of the proceedings. Its application to participate on behalf of the Bar Association was denied. Before withdrawing the Bar Association Committee, through its chairman, Mr. Hughes, made the following recommendations:

"that the Judiciary Committee at once report to the Assembly that there is no question properly before the Judiciary Committee of any disqualification on the part of these members; that no charges against these members of any constitutional disqualification, or of any misconduct in office or of any violation of law on their part have been properly made, that the members under suspension should at once be restored to the privileges of their seats and that if it be desired to present any charges against them of any violation of law, such charges should be properly formulated, and that until such charges, properly laid, have been established by proof, after due opportunity to be heard, these members shall enjoy all the privileges of their seats in recognition of their own rights and of the rights of their constituencies." (Record, page 6.)

Counsel for the five Assemblymen challenged the propriety of an investigation conducted by a committee appointed by the Speaker after he had expressed and conducted himself in the manner which has been described. Counsel for Committee stated in reply (p. 16) that with two exceptions the members of the Committee were the same who had served on the same Committee at the preceding session; and that the two new members had been chosen to sit on the Committee, not by the Speaker, *but by their respective party organizations*. The challenge was overruled. So also were other challenges on other grounds, including a challenge of all the members of the Committee who had expressed themselves by voting for the resolution.

Motions to dismiss the proceeding for want of jurisdiction of such charges and for insufficiency of the charges were denied. A motion for particulars of the charges was also denied.

The Committee then proceeded to the taking of testimony.

### *The Charges.*

The resolution directing the investigation is prefaced with the following clauses, *findings* in form, presumably *charges* in intention:

Whereas, Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon are members of the Socialist Party of America, and

Whereas, The said Socialist Party did at its official Party Convention held at the city of Chicago, Illinois, in the month of August, 1919, declare its adherence and solidarity with the revolutionary forces of Soviet Russia, and did pledge itself and its members to the furtherance of the International Socialist Revolution, and

Whereas, By such adherence and by such declaration made by the said party the said party has indorsed the principles of the Communist International now being held at Moscow, Russia, which International is pledged to the forcible and violent overthrow of all organized governments now existing, and

Whereas, Section 5 of article 2 of the Constitution of the Socialist Party of America provides that each member of the Socialist Party of America must subscribe to the following: "In all my political actions while a member of the Socialist party, I agree to be guided by the Constitution and platform of that party," and

Whereas, Section 13, subdivision A, of the State Constitution of the Socialist Party of the State of New York provides: "A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses: (f) for failing or refusing, when elected to a public office \* \* \* to abide and carry out such instructions as he may have received from the dues-paying party organization or as prescribed by the State or National Constitution," and

Whereas, Such instructions may be given by an executive committee made up in whole or in part of aliens or alien enemies owing allegiance to governments or organizations inimical to the interests of the United States and the People of the State of New York, and

Whereas, The National Convention of the Socialist party of America held at St. Louis from about April 7th, to about April 14, 1917, did duly adopt resolutions that the only struggle which would justify taking up arms is the class struggle

against economic exploitation and political oppression, and particularly warned "against the snare and delusion of so-called defensive warfare," and such resolutions further provided "As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity," and

Whereas, The Socialist party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage in the production of munitions of war and other necessities used in the prosecution of the said war and did thereby stamp the said party and all of its members with an inimicable attitude to the best interest of the United States and the State of New York, and

Whereas, The said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr, and Charles Solomon, members of the Socialist party of America, having been elected upon the platform of the Socialist party of America, have thereby subscribed to its principles and its aims and purposes, against the organized government of the United States and State of New York, and have been actively associated with and connected with an organization convicted of a violation of the Espionage Act of the United States. (*pp.* 2055-56).

It will be convenient to condense the charges stated in the resolution in the following phrases:

1. Adherence to Soviet Russia.
2. Pledge to further the International Socialist Revolution.

3. Indorsement of the principles of the Moscow International, "which is pledged to forcible and violent overthrow of all organized governments now existing."

4. Duty of Socialists to be guided by party platforms and constitution while members of the party.

5. Duty of Socialists elected to public office to carry out instructions of the party organization.

6. Possible control of the party organization by aliens.

7. Opposition to the war.

8. Solicitation of members to refuse to take part in the war or produce munitions of war.

9. Association by the Socialist Assemblymen with an organization convicted under the Espionage Act.

### *The Supplemental Charges.*

At the opening of the proceeding the Chairman of the Committee read a statement of the Committee's "understanding of the matters that are to be brought up for the consideration of the Committee." (p. 7). This statement added the following charges and variations:

10. That the platform of principles and doctrines of the Socialist Party as advocated to-day called for and demanded the complete destruction of our form of government by the fomentation of industrial unrest, the bringing into play of force and violence and direct actions by the mass.

11. That the five Assemblymen have subscribed to and advocated such principles.

12. That the five Assemblymen are in favor of the absolute substitution of minority for majority rule.

13. That they are in hearty accord and sympathy with the Soviet Government as it exists in Russia to-day.

14. That by voice and vote in public and in private they opposed every measure intended to aid in the prosecution of the war to a successful termination and gave aid and comfort to the enemy.

15. That they declared their "allegiance" to the Soviet Government.

16. "That they secured their nomination and procured their election under the pretense to the people that they were merely availing themselves of a legally established means for political representation, whereas in truth and in fact it is claimed that this was done to disguise and cover up their true intent and purpose to overthrow this government peacefully if possible, forcibly if necessary."

17. That they are engaged in a large and well-organized conspiracy "to subvert the due administration of law;"

18. "To destroy the right to hold and own property honestly acquired;"

19. "To weaken the family tie which they assert is the seed of capitalism;"

20. "To destroy the influence of the church;"

21. "To overturn the whole fabric of a constitutional form of government."

#### *Additional Charges.*

Counsel for the Committee during the proceedings have added the following further charges:

22. That the provision of the Socialist Party constitution providing that a member elected to public office who votes to appropriate money for military or naval purpose or for war may be ex-

pelled from the party renders it impossible for a Socialist honestly to take the oath of office; for under the New York State Constitution it is the duty of the Legislature to appropriate sufficient funds to maintain the militia.

23. That the revolutionary or subversive objects of the Socialist Party render it impossible for a member honestly to swear to support the constitution and laws.

24. That persons who *believes* that war debts should be repudiated are incapable of supporting the provision of the federal Constitution that the validity of the public debt shall not be questioned.

25. That the Assemblymen have violated the Espionage Act.

26. That the Socialist Party seeks to substitute a Soviet Form of Government in the United States.

27. That Assemblyman Claessens during his last term of office introduced "affirmative legislation of an offensive character" — referring to bills to do away with the right to conscript into the militia, military training of boys, and use of the militia, or state police to suppress strikes, lock-outs, or industrial disputes.

### *The Range of Inquiry.*

The resolution directing the investigation is the authority under which the Committee is acting. We believe that it should not have been construed as a general roving commission to the Committee. The direction to the Committee to investigate, is preceded by the specification of a number of allegations in "*whereas*" clauses. These allegations are cast in the form, not of charges, but of findings. While this form reflects a certain atti-

tude and disposition on the part of the authors of the resolution, it is hardly to be assumed that the Assembly meant the resolution to be construed as a final *judgment* that the "*whereas*" allegations are true. In that case, there would be nothing for the Committee to do except report upon the questions of law as to whether each or any of those allegations constituted a constitutional disqualification. The Assembly would hardly render judgment without trial and hearing of evidence. The "*whereases*" must therefor be construed as a formulation of charges.

Unless this formulation of charges was intended to limit the scope of the inquiry, it had no business in the resolution. What the Assembly has said in substance is this: "It is claimed that certain things are true about the political party to which these five Assemblymen belong. It is claimed further that these things disqualify the members of that party from holding office as Assemblymen. The Judiciary Committee is directed to ascertain:

- (1) Whether if true, any of these things operate in law to disqualify members of the party from seats in the Assembly.
- (2) Whether any charge constituting a ground of disqualification is in fact true."

The Committee has no warrant for exceeding these instructions. The Assembly might amend or supplement its resolutions; the agent, however, cannot extend the authority conferred upon him by his principal.

We believe not only that the range of this investigation should not have been indiscriminately extended; it should have been limited. The Committee should have formulated a definition at the beginning as to what may in law operate as a disqualification to sit in the As-

ssembly, and confined the investigation to such of the charges as came within that definition; further, as to any such charge, that there should have been a specification of acts relied upon to substantiate the charge, and an opinion as to whether the charge would in fact be made out by proof of such acts.

That has not been the course pursued. Evidence has been adduced rather to serve as the basis for impressions than with reference the formulation and decision of definite propositions of law.

While excepting to the rulings, we wish to record our appreciation of the personal courtesy and fairness of the Chairman and members of the Committee in the matters which have come up in the course of the proceedings.

### *The Scope of this Brief.*

The charges mentioned have to some extent merged in one another. We believed that we have covered in our discussion of the evidence all that remain of consequence in the minds of the Committee.

In the first part of the brief we point out that the evidence, although much of it was such as to distort the vision, shows affirmatively

1. That the control of the Socialist Party over its members elected to public office, far from being improper, is a method of fulfilling its responsibility as a political party under our system of Government.

2. That the Socialist Party has no secret ends; that it has no secrets; that it has no mechanism for secrecy.

3. That the revolution which Socialism proposes is neither a subversion of order nor a destruction of government.

4. That it seeks to accomplish its ends, not by force or unlawful means, but through the will of a convinced majority.

5. That it sympathizes with the efforts of the Russian people to maintain their government, but that it does not advocate the introduction of a similar government in the United States.

6. That International Socialism, both in theory and practice, is consistent with the duties of national citizenship and the ideal of patriotism.

7. That the Socialist Party during the war was true to its conception of the welfare of the American people.

8. That the Assemblymen took their oaths of office in good faith and are under no obligation inconsistent with their fulfillment.

The second part of this brief is concerned with this proposition:

**That the evidence affords no basis for claiming that the Socialist Assemblymen are lacking any qualification required by the Constitution, and that the Assembly has no power in law to require other qualifications of its members.**

## PART ONE — THE EVIDENCE.

### I.

The control of the Socialist Party over its members elected to public office, far from being improper, is a method of fulfilling its responsibility as a political party under our system of government.

The charges which at the outset of these proceedings loomed largest, both in the press reports and in the emphasis placed upon them in the hearings, were those which may be summarized in the proposition that the Socialist Party constitutions provide for an undue control over the policies and actions of its members elected to public office.

#### (a) *Membership Application.*

Attention was called, in the first place, to the membership application which every Socialist signs when he joins the Socialist Party. In it he asserts his belief in Socialism, renounces all other political parties and says:

“In all my political actions while a member of the Socialist party I agree to be guided by the Constitution and platform of that party.” (p. 1048)

This is not an oath. It has no element of irrevocable finality. It differs from the understanding upon which any citizen joins any other party only in this — it is written out and signed.

There is a distinct provision in the Constitution of the State of New York (*Art. XIII, sec. 1*) against

promising anything of value *in consideration of a vote* at an election. No Socialist violates it. It has nothing to do with this case. It does not mean that political parties shall not have principles or that their candidates shall not in fact support those principles if elected.

(b) *Advance Resignation.*

The State Constitution of the Socialist party purports to require a candidate for office, upon his nomination, to sign and file with the party organization a resignation in advance. (p. 1076) This was an obvious, and, as a matter of law, *ineffectual* device for an informal *recall* of elected officials who might prove unfaithful. In a letter written in 1916, put in evidence by counsel for the Committee, the then National Secretary of the party stated this object as follows:

“Candidates of the Socialist Party for public office are supposed to sign resignation blanks so that they may be *recalled for cause*. We maintain that in having such control over our candidates they will adhere more strictly to the program of the party and render more efficient service to society.” (p. 1939)

Mayor Lunn of Schenectady, whose separation from the Socialist Party resulted from differences with it as to his official conduct, agreed that its purpose in such party control was to hold officials up to platform obligations and not the control of patronage. (p. 360)

Mayor Lunn ran on the Socialist ticket three times. On the first occasion, in 1911, he signed a resignation; in the later campaigns he did not. (pp. 352 seq.) The testimony of the National Secretary, Mr. Branstetter (p. 1503), the Secretary in New York City, Mr. Ger-

ber (pp. 1583-5), and the elected officials themselves (*Mr. Waldman*, p. 1759; *Mr. Solomon*, p. 1939; *Mr. Claessens*, p. 1980) shows the practice, formerly general, is dying out, and that in no instance within years in the State of New York, has a Socialist candidate for office signed a resignation.

We bring out the fact that the advance resignation provision is dead because it is the fact. It is not important. Suppose the practice still prevailed. It would mean only this — that an elected official who proved untrue to his party principles might be ejected, *not from his office, but from the party which elected him.* Is any political party, or any other organization, going to tolerate in its membership an individual who is untrue to its principles and with whom it cannot accord? The case cited by Senator Brown in this connection, *People v. Squire*, 20 *Abb. New Cases*, 368, is the case of a *corrupt agreement, in consideration of votes*, to put a resignation in the hands of the purveyor of the votes as security for a promised prostitution of office. There is no contract or agreement *founded upon consideration* between the Socialist party and its members or office-holders. **Party discipline, as in any other party, is dependent on the member's voluntary submission to it. If he wants to he can get out of the party.** The case has no application.\*

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\* The same is true of the only other case cited by counsel for the Committee with relation to control of public officials, *Matter of Guden*, 171 N. Y. 529. It involved no question of responsible *party control*. Counsel quoted, not from the *decision* in the case, but from a description of a charge made against a sheriff in a proceeding for his removal by the Governor under the Public Officers Law. The charge was that he had farmed out to an *irresponsible* "patronage committee" the selection of his deputy sheriffs. The decision in the case was that the court could not consider the charge or pass on its sufficiency, the question being an executive one for the Governor. The case is not in any sense an authority, or even suggestive of a principle, bearing upon any aspect of this case.

(c) *Possible Control by Aliens.*

Every office holder elected as a Socialist recognizes a moral obligation to ascertain and abide by the wishes of a majority of the dues-paying members of his local (*Branstetter*, p. 1546); if he fails to carry out *instructions* of the dues-paying organization, he may be expelled from the party (*State Constitution of the party*, p. 1067).

No fault is found with the existence of a dues-paying organization. Political parties are in fact expressly authorized by section 40 of the Election Law to assess dues if they so desire.

It has, however, been urged, with diminishing seriousness, that Socialists in public office were subject to the *possibility* of control by aliens or minors — and on one occasion the claim was inadvertently added that there might be control by women. The facts are that upwards of 90% of the dues-paying members of the party, both in New York and generally, are American citizens (*Gerber*, pp. 1578, 1597; *Branstetter*, pp. 1498, 1502, 1515), and only one alien, Mr. John Spargo — to whose domination the party is not charged with having submitted — has ever been a member of the National Executive Committee.

There is no reason in law or morals why the Socialist Party should not admit aliens to membership. It is not the first political party in America to realize that immigrants are potential voters. No scandalous effort to expedite the naturalization of aliens unqualified for citizenship has even been charged against the Socialist Party, as it has in the past been charged against others. The Socialist Party holds classes in citizenship for its alien members. It provides them with instruction in the constitution of the United

States and the principles and obligations of citizenship, with a view to their proper naturalization. (*Branstetter*, pp. 1511, 1526; *Gerber* p. 1582.)

By an amendment to the party constitution proposed at the Chicago Convention in September, 1919, and adopted by referendum, each alien applicant for membership must subscribe the following:

“Upon the acceptance of my application for membership in the Socialist Party, I promise within three months, wherever possible, to make application for citizenship.” (*Party Constitution, Article II, § 5, Record*, p. 1049.)

(d) *The Practice and the Legitimate Function of the Control of Legislators by Political Organizations, whether Socialist or non-Socialist.*

The Socialist Party representatives are in fact, probably, the most unhampered representatives who sit in any legislative body. They conceive their duties in the spirit of their party principles; they seriously study and discuss the application of their party principles to particular problems. In case of doubt, they appeal to the party. There has been only one instance where instruction has been given to assemblymen as to their legislative conduct. That was when they were in doubt as to the position to take with respect to the ratification of the Prohibition Amendment. The instructions they received were that they should advocate a bill submitting the ratification of the Prohibition Amendment to a popular referendum. (*Gerber*, p. 1586; *Waldman*, p. 1748.)

We shall here incorporate the language used by Mr.

Hillquit in his closing address to the Committee (*pp.* 2083-2085):

"You know, gentlemen, there is a story about the Roman augurs. The Roman augurs used to tell fortunes from the entrails of animals, and the people believed in them; but there was the historic and proverbial wink which they used to give each other when meeting. They knew each other, and when you gentlemen of the Republican and Democratic parties charge us—the Socialists—with permitting too much party interference in the performance of our public duty, we feel like winking at you off the record, because where do we come in with you in party interference? Everything charged against us applies absolutely to the Republican and Democratic parties.

"Do you remember we recently had informal conventions of both parties, and each of them *recommended* certain persons for office, delegates to the national convention? It was a recommendation. That was all. But you can imagine that it will go with the party and with the voters just the same.

"I have heard before of such expressions as a 'party leader,' or vulgarly, a party 'boss,' who represents the party and stands between the party and the elected public officials. Perhaps it does not exist. Perhaps it is only a myth; but when your term of office expires, gentlemen, and you want a re-nomination, try to find out whether you will go to the electorate as a whole to get that nomination or perhaps pay first a little friendly call to the political party leader, or party boss.

"In this very House, as in every other House,

you recognize the existence of political parties and their right to control the actions of their representatives. What is your majority leader,\* what is your minority leader, other than instruments of the respective parties to influence and control the conduct of their representatives? And in so far as such control is not for corrupt purposes, but for legitimate political purposes, for the purpose of securing party unity in action, it is perfectly proper and we recognize it.

"What are your caucuses, caucuses of the Republican party, caucuses of the Democratic party, announced from the floor here? What is it but another instrumentality for bringing about uniformity of action among the members of the respective parties on the floor of this House or any other legislative body? Why, gentlemen, this proceeding itself—this proceeding in which we are charged with unduly controlling our representatives in the Assembly—is an eloquent testimonial to the control by the old parties of their members.

"Here we read in the record, the Assembly came together the first time. A resolution of unusual importance is suddenly sprung upon the

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\* The Rules adopted by the Assembly on January 7, 1920, the day on which the five Socialists were denied their seats, provide as follows:

"The Speaker shall appoint a majority leader, who shall be a member of the Ways and Means Committee and the Committee on Rules, and who, in addition thereto, shall be a member ex-officio of all other committees of the House and entitled to the same rights and privileges as other members of said committees of which he is an ex-officio member, except the right to vote."

One of the first things to attract the notice of a visitor at a session of the Assembly is the private telephone, openly used, between the seat of the Majority Leader on the floor and the Speaker's rostrum. During telephone conferences between the Speaker and the Majority Leader the House goes by tacit understanding into informal recess.

members. They are not prepared for it. We have heard the testimony, public testimony of Assemblyman after Assemblyman, that they knew nothing about it, that they were absolutely unprepared for it, that they could not in conscience vote for it. But the resolution is introduced by the majority leader. Every Republican votes for it. The minority leader is called upon to vote. He votes for it. Every Democrat, with two exceptions, follows. The next day they wake up — some of them do — and say, 'What have we done?' What is this? Is it anything more than a demonstration of the power of political parties and their control of the action of the representatives on the floor of this Assembly? We don't say that by way of indictment or charge, but we say that to remind you gentlemen that this question of political control by a party of its elected officials is not a peculiar indictment against the Socialist party.

"And now, since we are all politicians, I will say a few words to ease our conscience, and I will say this: That this objection to political parties interfering with the conduct of representative officials is not one based on law or morals, but on old, outworn prejudices."

The argument that Socialist assemblymen are unduly controlled by the organization whose principles they represent — for whose principles they were elected, could hardly be seriously advanced, were it not for an ambiguity with respect to the functions of political parties and elected representatives in the United States. The origin of this ambiguity is historical. When the American Constitution was adopted, the very idea of political parties was anathema. They were not recog-

nized by law. There was no law against them, either, but it was the expectation, or at least the hope, of the founders of our institutions, that we should be able to get along without them. In a country consisting of a few million inhabitants distributed in small units of population, where everyone knew his neighbors, it was not unreasonable to think that citizens could choose representatives whom they personally knew to be suitable, without the intervention of party. The same theory is reflected in the constitutional provision for the choice of the President of the United States by a "college" of elected delegates, selected to use their own judgment and discretion.

Political parties were not forbidden, but they were not legally or constitutionally recognized.

"The framers of the Constitution of the United States, did not foresee the role that party was to play in popular government, and they made no provision for it in their plan; yet they established a system in which parties were a necessity."

*A. Lawrence Lowell; The Government of England, 1908, Vol. I, p. 439.*

Professor John R. Commons\* says:

"Our federal and state constitutions were originally framed under the conviction that parties were the deadliest rocks in the path of freedom. \* \* \* Washington's farewell address was inspired almost solely by this dread. \* \* \*"

Professor Commons traces the various stages in the legal recognition of political parties in New York

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\* In a paper entitled "*The Legalization of Political Parties*," (published as an appendix at page 279 of his work on *Proportional Representation*).

State. The first was the provision in the Election Law of 1842 to the effect that three inspectors of election should be elected, but that each voter should vote for only two; it was obviously desired to avoid anything like express recognition of political parties, and at the same time to assure bi-partisan elections. Parties were not affirmatively recognized as a part of our system until within the last thirty years, when the Australian ballot laws (1) defined parties; (2) provided for party nominations for office to be certified by party authorities, and (3) put upon the State the task of printing and distributing ballots — which had heretofore been done unofficially by the, until that time, extra-legal party organizations. Parties are now recognized not only throughout the Election Law, but in the State Constitution itself. Professor Commons concludes:

“Political parties are no longer private concerns organized for agitation, but they are public institutions organized to name the officers of government and so to control the government itself.”

The Socialist Party acknowledges and shoulders its party responsibility. It does not say: “Vote for our candidate because he is a good fellow.” It says: “Your vote is not a vote for a candidate, but a vote for our platform. We will give you the best candidate we can find; but we know the danger of his being seduced into playing personal politics, once they get him at Albany or Washington. We shall see that he works for our platform. And we will direct him, if we have to direct him, not secretly, not in lobbies, or private conference, but democratically, in the open, in your sight and in accordance with your votes.”

Most of the evils of modern politics are due to the invisibility of responsible power. The Socialist Party proposes that responsibility be open and visible.

## II

**The Socialist party has no secret ends; it has no secrets; it has no mechanism for secrecy.**

The Party Constitution declares that "*political action is absolutely necessary to the emancipation of the working class,*" and provides that applicants for membership in the Socialist party shall subscribe to its principles, "*including political action*" (p. 1047). "Political action" is defined as

"participation in elections for public offices and practical legislation and administration work along the lines of the Socialist Party platform to gain control of the powers of government in order to abolish the present capitalist system and to secure the substitution of the Co-operative Commonwealth." (p. 1047-8)

It is charged in this proceeding, however, that the Socialist Party does not sincerely believe in political action; that it "masquerades" as a political party; that the five Assemblymen obtained their nomination and election

"under the pretense to the people that they were merely availing themselves of a legally established means for political representation, whereas in truth and in fact it is claimed that this was done to disguise and cover up their true intent and purpose to overthrow this government, peacefully if possible, forcibly if necessary."

Under the present head we are discussing only the charge that our politics is a sham; the substantive

charges that we advocate improper ends and means will be dealt with fully later.

The charge is an ingenious misconstruction of frequent Socialist declarations to the effect that political success is merely preliminary, or that politics is only a means to an end. The following passage in Hillquit's *Socialism Summed Up* is a correct statement of the Socialist position:

"In the Socialist conception, politics is only a means to the end. Temporary and local political power is valuable mainly as affording an opportunity for economic reform, and the final national political victory of the workers will be of vital importance only as a necessary preliminary to the introduction of the system of collective and co-operative industries." (*Exhibits*, p. 385)

Is there anywhere in the world a true political party in its prime and vigor that does not consider politics as a means to an end? Every political party is supposed to have a platform. Its end is the realization of that platform. Its means are politics, office, control of government. It is only when a political party degenerates into an office and patronage-holding concern that politics become an end in themselves. When the Republican party was organized, it had a great mission to perform, and politics was the means to the performance of that mission. Socialists are not in politics, of course, for the purpose of giving Claessens, Waldman, Solomon, deWitt and Orr offices at the remunerative salary of \$1,500 a year. We are not in politics for spoils. Our politics are the means to our end; and our end is the introduction of the Socialist system of society.

Mr. Waldman described on the stand the methods of the Socialist delegation in the Assembly in 1918 —

how they came together and first took up their political platform in order to ascertain the pledges or promises upon which they had been elected, and then divided the work and assigned different tasks to each one, and each of them spent days, and sometimes weeks in studying his subject; and then introduced bills, and followed them up, and tried to get them out of Committee, and tried to get them on the floor of the House (pp. 1899 seq.). It is not charged that any Socialist ever neglected his business as an Assemblyman by reason of his zeal as a propagandist. The Assembly will hardly elevate into a major grievance Mr. Claessen's intimation (p. 238) that the opportunity to go to neighboring towns and arouse the workers by speeches is worth more for Socialism than anything five lonely Assemblymen can accomplish by addressing their colleagues in the Assembly. Mr. Claessens has proved himself a hard-working legislator. (p. 1960) The Socialist members attended the sessions, they voted, they studied, they thought, they discussed. They had public meetings for the purpose of reporting to their constituencies. (p. 1981-3). There would be more substance to an accusation against them that they took their politics too seriously — that they were not content to regard holding office as an end in itself — that they were too much in earnest about their political ends for the comfort of their opponents.

The Socialist party in fact lacks physical capacity to erect a sham or to harbor a secret. It has no hierarchy. Its organization is ultra-democratic. It has no doctrine, no platform, no rule, no spokesman, no official, no committee, whose authority may not at any time be challenged by the membership and abrogated. Whatever stands as its doctrine or program or policy, stands by reason in the first place of emanating from either

the membership directly or their elected representatives, and, in the second place by reason of communication to and acceptance by the membership. Party elections are frequent, tenure short,—and may be shortened by recall. Every action of serious consequence, national or local, goes to referendum. The members are jealous of delegation, insatiable in supervision.\* Propaganda is the life of the movement. The basic propaganda is the declarations of principles and purposes **adopted by delegate bodies or by referendum.**

In 1918, 121,705 adult American citizens in New York *State* voted for Mr. Ervin, editor of the Call, the Socialist candidate for Governor. In 1919, in *New York City alone*, James Oneal, Socialist candidate for President of the Board of Aldermen, received 129,616 votes. Captious steadfastness in a preconceived conspiratorial hypothesis may choose between two explanations: (1) these citizens knowingly voted for a subversive secret program; or (2) the party's democratically adopted declarations of plan and purpose hoodwinked them. Is one less preposterous than the other?

### III

**The Revolution which Socialism proposes is neither subversive of morals nor destructive of government.**

It is charged that the Socialist party is a revolutionary organization; that the five Assemblymen are engaged in a conspiracy to subvert the due administration of law, and destroy the right to hold and own private property honestly acquired, to weaken the family tie, and to destroy the influence of the Church; and that

\* See National, State and Local constitutions and by-laws, 1069, 1072, 1073, 1075, 1078, especially pp. 1049-1056, 1065, 1082, 1094, 1096, 1097.

the platform of the Socialist party calls for the complete destruction of our form of government. These charges call for an understanding of some of its basic conceptions and constructive aims.

It is naive to ascribe the Socialist movement to the malevolent or malicious machinations of agitators bent on destruction.

The cardinal assumption of Socialism is that the government is not a mere policeman, maintaining a show of order in a perpetuity of contention. Socialists think that government has for its primary object to secure the physical, mental, moral, and spiritual well-being of its people. It is not as the climax to a Fourth of July oration, but as living truth that we endorse the declaration of the rights to life, liberty, and the pursuit of happiness.

By liberty we do not mean merely a condition outside of jail. We mean actual political and economic independence; the freedom of men from men; the equal freedom of all insofar as such freedom is compatible with the existence of organized government. And when we speak of the right to pursue happiness we include a right to get a good measure of the good things of life — sunshine, air, amusement, the blessings of civilization, the products of art and science — the right to live as fully and as nobly as our capacities permit.

Neither our own government nor any other modern government secures these rights to the generality of its people. We do not say that our government *cannot* get us these rights; we say that it has not. To make it do so is the revolutionary change that we urge.

The resources are not wanting. We have a fertile country; inexhaustible natural resources, coastlines, waterways, an intelligent population. We have developed the modern processes of world production to such

an extent that we can produce today ten times in some case 100 times, more than our fathers and forefathers could with the same effort. We have an industrial organization the like of which history has never known.

Profit, turned into capital, and so into more profit and more capital, has rolled up and up upon itself, taking away from those who live by service and invest no profit more and more of whatever share they had in land, mineral resources, water power, railways, factories and machinery of production. The Industrial Relations Commission, appointed by President Wilson in 1914, reported, after exhaustive inquiry, that 2 per cent of the people of the United States owned at that time 60 per cent of its wealth; 33 per cent of the people owned 35 per cent of the wealth; 65 per cent of the people owned 5 per cent of the wealth. Two million people, who would make up a city smaller than Chicago, owned 20 per cent more of all the nation's wealth than all the other ninety-eight millions. At least one single individual owned as much as two million and one-half working people together. One-half to two-thirds of the working class families were found in abject poverty. Infant mortality among the children of fathers earning less than \$10 a week was 256 for every 1,000; and one-quarter of all the adult male laborers earned less than \$10 a week.

That was in 1914. Then there were only 7,500 millionaires; now there are 35,000. And every accumulation of capital means an increased concentration of ownership in the sources of wealth and life.

People's lives are not their own. The ground they live and walk on is not their own. Their jobs are not their own; they are not consulted about and not interested in the ends for which they work. And in a period of seasonal or industrial depression it does not

pay to give them jobs, they may starve — or more likely, half starve, draining their vitality. When they have jobs, their pay is measured, not by the value of what they produce or by the proportion of the world's income fairly available for such service, but by the amount which under various fortuitous conditions of the time and place the employer has to concede.

Socialism did not create the class struggle — does not foment it. It only opens its eyes to it and seeks its abolition. Socialism does not find fault with the participants — except for not trying to end it. It does not blame any individual for taking advantage of such opportunity and such capacity as he may have to lift himself to ease and freedom. There is very little choice in the matter. A man either steps upon others, or he is trodden upon and brushed aside. War is the law of capitalist society. The employer must see to it that he makes proper profits, must see to it that he pays as little in wages as he possibly can and gets as much out of his workers as he possibly can; otherwise, his competitor who gauges things more closely will engross his business, and then he will not be an employer any longer. There is war and struggle between competing employers. There is war and struggle between worker and worker; for whenever, particularly in times of industrial depression, a job is open, and more than one man is jobless — and most, or many, of them have wives and children — each of them is ready to take any pay, so long as he is allowed the privilege of working and earning some wages. And if his pay is cut too low, he will bring his wife and children into the factory to compete with other men. There is struggle between landlord and tenant; between producer and consumer. But above all, there is struggle between employer and employee.

Socialism says that it is altogether wrong to allow such vital functions as feeding the people and maintaining them in health and giving them opportunities to experience the fullness of life to be carried on by irresponsible capitalists for private profit. The remedy is to nationalize the principal industries. Instead of the wasteful chaos of mean strivings which deprives not only the exploited but the exploiters of the best of life, we should scientifically organize our industries with a view to eliminating the waste, producing a maximum of wealth, and distributing it as equitably as possible among all the people. As the party constitution puts it:

“The fundamental aim of the Socialist Party is to bring about the social ownership and democratic control of all the necessary means of production — to eliminate profit, rent and interest, and make it impossible for any to share in the product without sharing the burden of labor — to change our class society into a society of equals, in which the interest of one will be the interest of all.” (*p.* 1047).

This is not “mild reform.” It is basic and fundamental. It is the Revolution. It has nothing to do with the family. It has nothing to do with the Church. It will not subvert the due administration of law or destroy or overthrow the government. It will not affect any one’s right to private property which he can use without exploiting human beings. It is not inconsistent with a high return for high service. It is inconsistent with a high return for the service of others.

## IV

**The Socialist Party seeks to accomplish its ends, not by force or unlawful means, but through the will of a convinced majority.**

No official party declaration or authoritative Socialist statement advocates the attainment of social ends unlawfully. It is sought, however, to substantiate such charges by inference and innuendo from the revolutionary nature of the Socialist movement and from expressions with respect to labor organization and mass action.

*(a) Revolution and Violence.*

In a democratic country the Socialist revolution is not one that *can* be effected by violence. Socialism seeks to organize the whole community as a public instrumentality for the operation and management of the industries. That cannot conceivably be brought about except through the government with the concurrence of the public will.

Socialism seeks therefore to convince, not to compel. It expects to convince most readily those who have most to hope and least to fear from fundamental change. It relies primarily, therefore, upon the working class. "Working-class solidarity" is the *instrumentality*; *elimination of classes*, not "class rule," is the aim.

The established position of the Socialist Party as to method was expressed in the booklet in evidence by Morris Hillquit, entitled "Socialism Summed Up." (*Exhibits*, pp. 359-417). This was written before the European war. It has been officially published by the National Office of the Socialist Party, and other editions by the Rand School of Social Science. It has

circulated in many thousands. This pamphlet says, in the chapter entitled "The Methods of Socialism":

"The introduction of the Socialist regime depends on two main conditions:

"First.—*The economic situation of the country must be ripe for the change.*

"Second.—*The people of the country must be ready for it.*

"The first condition takes care of itself. *The task of the Socialist movement is to bring about the second condition, and it is this aim which determines the methods and the practical program of the movement.*

"Whether the Socialist order is to be ushered in by a revolutionary decree, or by a series of legislative enactments or executive proclamations, *it can be established and maintained only by the people in control of the country.* In other words, Socialism, like any other national political program, can be realized only when its adherents, sympathizers and supporters, are numerous enough to wrest the machinery of government from their opponents, and to use it for the realization of their program.

. . . "Modern Socialists do not expect the Socialist order to be introduced by one sudden and great political cataclysm, nor do they expect it to be established by a rabble made desperate by misery and starvation. *The Socialists expect that the Co-operative Commonwealth will be planfully built by an intelligent and disciplined working class, thoroughly organized, well-trained and fully qualified to assume the reins of government and the management of the industries.* Next to

the education of the workers in the philosophy of Socialism, the prime task of the Socialist movement is, therefore, their political and economic organization. . . .

"The objective point of the Socialist attack is the capitalist system, not the individual capitalists. The struggles of the movement represent the organized efforts of the entire working class, not the daring of the individual leader or hero. The intellectual level and political ripeness of the working class are determined by the training of the men and women constituting that class, and not by the more advanced visions of a small group of it. *A country can be educated, led, and transformed into Socialism, but it cannot be driven, lured or bulldozed into it. The Socialist conception of the world process is evolutionary, not cataclysmic. Socialism has come to build, not to destroy.* This accepted position of the modern Socialist movement is, however, not to be taken as an assurance or prediction that the Socialist victory will in all cases come about by orderly and peaceful methods, and will not be accompanied by violence. *It may well happen that the classes in power here or there will refuse to yield the control of the government to the working class, even after a legitimate political victory. In that case, a violent conflict will necessarily result, as it did under somewhat similar circumstances in 1861.* But such spectacular and sanguinary outbreaks, which sometimes accompany radical economic and political changes, are purely incidental — they do not make the social transformation. Thus in England the revolution which transferred the actual control

of the country from the nobility to the capitalists, was accomplished by gradual and peaceful stages, without violence or bloodshed. In France, the same process culminated in the ferocious fights of the Great Revolution of 1789. But who will say that the transition in England was less thorough and radical than in France? As a matter of fact, street fights do not make a Social Revolution, any more than fire-crackers make the Fourth of July."

Thus the position which counsel for the Committee have seen fit to characterize as "evasive," and "hypocritical" anticipated by some years the occasions for which it has been sought to imply that it was invented. It is standard socialist theory that violence in revolution is not usually part of the revolutionary program, but is more often forced upon a victorious revolutionary majority by desperate reactionaries. When Mr. Claessens quoted from a Socialist author the statement that "revolutions are seldom noisy or bloody unless the ruling class impudently and stupidly stand in the path of progress and cry 'Halt'" (p. 230), he was not threatening the processes of law and order. Socialists, like other people, differ in matters of prophecy; some of them expect more reasonableness and some of them expect more desperation on the part of the then minority when Socialism shall have captured the popular will. The same man may prophesy differently in different moods. Mr. Claessens might be indulged in a rather special despondency on a November day when he was still fresh from the reality of what he thought was a stolen election. (p. 1974) But this is what he said:

"I know some of you feel 'To Hell with the whole matter of voting; to Hell with the whole

form of government.' . . . *But I am not one of those to become pessimistic* " (p. 235.)

And later in his speech:

*" We will use political power as long as we have it, and political campaigning as the platform of call for the social revolution, and we shall do that to our utmost."* (p. 237).

Mr. Oneal likewise, in the peroration to the speech of his which has been treated by counsel as an advocacy of bloodshed, was perfectly clear and explicit as to the attitude and tactics of the Socialist Party:

*" We have a big struggle before us. They " (referring to the " dark forces of reaction " in the United States) " would like to goad us into some conduct that would enable them to crush us. But we shall not play their game. We shall continue our efforts along peaceful, intelligent, educational lines, knowing that in the last analysis that once we reach the heart, the brain, the conscience of the great masses of the American people, come what will, gags, chains, jails, cannot prevent us from transforming the United States into a genuine, thoroughgoing industrial democracy of Socialism."* (p. 419.)

The Socialist party is not a party of non-resistance. It said so in that much-handled sentence of the St. Louis War Proclamation of 1917: " The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression " (p. 450). This was no call to arms. The

party was not announcing the existence or proximity of a struggle which would justify taking up arms; it was expressing its earnest conviction that the European War was *not* such a struggle. Socialists recognize that justifiable wars have occurred and may occur again. For instance, suppose the economic condition of a country is ripe, and the people are ready; but the convinced population has no political power — no parliamentary representation, no ballot boxes, with which to introduce peaceable innovations. There was no apparatus of democracy which could be used to end czarism; they could not vote him out of office; there was nothing to do except to throw him out physically. Similarly in our own revolution. The majority of the people in the Colonies wanted certain changes,—not at first, but finally, complete independence from England. They had no votes — no parliamentary representation even to present their case. They could only emancipate themselves by a physical act of separation, taking the consequence of war.

The right of revolution exists in all countries and in all times, whenever the conditions become incompatible with the life, liberty, and happiness of the people. Where there is political freedom, revolution can be effected, if at all, without violence, and violence is unjustifiable. The position of counsel for the Committee comes down to something like this — that in this country, founded on revolution and proud of its foundation, revolution is illegal even when it involves no violation of law.\*

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\*As a matter of history, Senator Brown was in error when he stated that "there never was any such *legal* right as the right of revolution." In the Legislative Manual, between the title page and the Declaration of Independence, is the Magna Charta. Section 61 of that statute provides for securing amends for usurpation by the King through representations transmitted to

(b) *As to Mass Action.*

*Mass action* is the opposite of *individual* action. *Individual* action is illustrated by assassination and sabotage, which Socialists disapprove. *Mass action* is any organized action of the people. Political action is mass action; so is an organized strike; so is a procession.

Mass action affords legitimate, proper, and effective means for getting attention for views and consideration for grievances. The Socialist party has never advocated or employed any illegal form of mass action. The revolution in the nineteenth century which made over England, effecting changes not less fundamental than those accomplished in France with the accompaniment of violence, was accomplished peacefully. It was accomplished largely through mass action. Throughout the period following the revolution in France, England seethed with agitation for extension of suffrage, and other reforms, conducted through clubs and associations. During the parliamentary debates upon the Reform Bill of 1832 the Birmingham Union "produced a peaceful display of organized moral force too immense to be disregarded;" its members marched in procession with bands, badges and banners. After the Reform Bill was passed, a large part of the working class, still left un-enfranchised, continued these demonstrations as "Chartists." They got up one petition with 1,200,000 signatures; another with 6,000,000. The Anti-Corn

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him through a council of twenty-five barons; and if the King does not amend the error, then

"those twenty-five barons, with the whole land in common, shall distrain and oppress us" (meaning the King) "in every way in their power — namely, by taking our castles, lands, and possessions and in every other way that they can, until amends shall have been made according to their judgment. Saving the persons of ourselves, our queen and our children. And when amends shall have been made they shall be in accord with us as they had been previously."

Law League under Bright and Cobden conducted an immense campaign of propaganda. Demonstrations continued until the adoption of free trade and the extension of the franchise through the second Reform Bill in 1867 deprived them of reason for being.

Mass action is a valuable and legitimate instrument of democratic progress.

(c) *The Socialist Party and Labor Organization.*

It is insinuated that violent or unlawful implications attach to Socialist expressions with respect to labor organization. The Socialist Party is *for* it, wholeheartedly. It prefers the industrial form of organization such as that of the United Mine Workers — the organization of all the workers of an industry into a single union — to the form of organization of mutually competitive "craft" unions which is generally prevalent in the American Federation of Labor. Counsel for the Committee profess to find in this preference some sinister significance which they have not explained. Socialists consider that it involves a simple operation of common sense. They care, however, for organization, primarily; secondarily for its effective form.

In "Socialism Summed Up" it is said:

"A general political victory of the workers would be barren of results if the workers were not at the same time prepared to take over the management of the industries. The Socialists therefore seek to train the workers in economic no less than political self-government. It is for that reason that the movement everywhere seeks alliance with economic organizations of labor, the trade unions, and the cooperative societies." (*Exhibits*, p. 385).

In the party constitution, immediately after the statement of the "fundamental aim" of the party to democratize industry (quoted *p. 34 supra*) comes this:

"As subordinate and incidental to this fundamental aim, it supports every measure which betters the conditions of the working class, and which increases the fighting power of that class within the present system." (*p. 1017*)

The manifesto adopted at Chicago in September, 1919 (see also in the preamble to the party constitution), says this:

"To insure the triumph of socialism in the United States the bulk of the American workers must be strongly organized *politically as socialists* in constant, clean-cut and aggressive opposition to all parties of the possessing class. They must be strongly organized on the economic field on broad, industrial lines as one powerful and harmonious class organization, cooperating with the Socialist Party and ready *in cases of emergency* to reinforce the political demands of the working class by industrial action." (*pp. 306-7*)

The Socialist Party is a political organization. It has no thought of transforming itself into a labor organization. It contemplates no campaign of industrial action. But it wants the working class to establish effective labor organization. In emergency, it would like to have its political demands backed up by the independent industrial action of such organization.

What reason is there in either law or morals why it should not formulate and express such thoughts and desires?

*(d) The Socialist Party and the General Strike.*

The idea of a general strike for political purposes is one that the Socialist Party of the United States has consistently rejected. The argument has been that if the number of workers in a parliamentary country who are determined to the point of striking for political reform, is strong enough to entertain the notion of a general strike, it is strong enough to cast its votes for the reform and effectuate it by political means. Therefore, the general strike is unnecessary. On one occasion only has there been an endorsement of the general strike by the Socialist Party. That was in a proclamation early in 1916 in opposition to the efforts at that time to draw the United States into the war. (p. 1369-70.) At that time, under special pressure, the Socialist Party declared its opposition to the war not yet declared to be so strong as to sanction even a general strike for its prevention. The Socialist Party did not attempt to call a general strike. It did not attempt to organize one. It had no power to do either. The resolution which was published, whatever may be thought of its political wisdom, was perfectly legal. Any one had a right to declare such an opinion.

Furthermore, regardless of the attitude of the Socialist Party on general strikes for political purposes, the workers of this country have the right not only to favor but to carry out a general strike, and it is well that this instrument should stand in abeyance for possible use in very exceptional emergencies. Mr. Lee gave some instances of circumstances in which he would admit the necessity or propriety of a general strike. He cited two instances of its use in Belgium to reinforce a political demand for reformation of unequal suffrage, both of which were partially successful (p. 582). He cited

also the Russian strike of 1905, involving not only manual workers but professional people, which resulted in the establishment of the Duma. Mr. Hillquit also put an hypothetical situation in which a general strike would be proper — which, as it was misstated and amplified by counsel for the Committee in summing up (p. 2156), we quote here as Mr. Hillquit gave it:

“Let me give you this hypothetical instance. A labor party is now being formed at least in some parts of the country. Suppose the workingmen of any State got together and say, ‘We want to form a party of our own; we are not satisfied with the way these representatives of the old parties are legislating on labor matters. We want our own representatives to come into legislative bodies and to voice our demands, our aspirations, our sentiments. We want them to speak for us by our mandate.’ And suppose an election is held, and being confronted with all sorts of election frauds in the most brutal manner, they still manage to elect a few of their representatives, and those representatives come to the legislative body and their working constituency is waiting and watching, hoping that there at last their own direct representatives will speak for them in the halls of the Legislature. And suppose a big capitalist in the same Legislature thereupon gets up and tells them, ‘Look here, gentlemen, I don’t approve of your program, of your principles, of your platform. Get out of my Legislature.’ I say this would be eminently a case where the workers would be justified in declaring a general strike until such time as their constitutional rights are actually accorded to them.”

Mr. Hillquit was not making a threat, as counsel for the Committee intimated. He was supposing the case of a party which had the backing of an industrial organization to support its constitutional rights.

## V

**The Socialist Party sympathizes with the efforts of the Russian people to maintain their government. It does not advocate the introduction of a Soviet system in the United States.**

The charges impute to the Socialist party advocacy of a Soviet system of government for the United States, and, as deductions from that imputation, *first*, general subversiveness, *second*, approval of violent, ruthless, or unlawful methods, and *third*, a design for the "absolute substitution of minority for majority rule."

The premise is not true. The deductions would not follow from it if it were.

A word first as to the deductions. We do not profess to have final and accurate knowledge about Russia. We do not believe that the Committee has such knowledge, or Mr. Lansing, or Mr. Sweet, or any living person out of Russia — or perhaps in. We are satisfied that there has been a great deal of misrepresentation; the falsity of some reports, such as the Siesson documents and the nationalization of women fable, has been established (*pp.* 1325, 1409); we are aware of deliberate bias behind some reports, and influences making for unintentional bias behind others, and we are to a great extent incredulous. There is hardly such a thing as an impartial observer (*p.* 1317). We consider, however, that we have some reliable information (*Wilfred Humphries' speech*, *p.* 103); and

that we have good grounds for our favorable opinion of Soviet Russia (*pp.* 1317, 1415).

We do not believe that the Soviet government is a general subversion of order, morals and decency; we think that it has accomplished a good deal, under great difficulties, in the way of establishing order, both political and economic (*pp.* 1318 *et seq.* 1348). We understand that, though it was established by a revolutionary *coup*, not indefensible in view of the pre-existing chaos, *its establishment was not accompanied by violence* (*p.* 1319); that it has maintained itself with less violence and greater moderation than is generally supposed (*p.* 1324); it has won the support of the Russian people; that though it calls itself a "dictatorship of the proletariat," it is not a "dictatorship," but a somewhat limited democracy, by no means involving a substitution of minority for majority rule (*pp.* 1332 *seq.*).

Next as to the premise that the Socialist party proposes a Soviet system for the United States. It has no basis except the sympathy Socialists feel for the efforts of the Russian people to maintain the government they have chosen. At the Chicago convention last September the Socialist party declared:

"We, the organized Socialists of America, pledge our *support*" (or "solidarity" if the Committee prefers; "support" was the word the convention adopted) "to the revolutionary workers of Russia in the support of *their* Soviet government" (*pp.* 305, 307; *cf.* *p.* 1397).

That is a declaration of our sympathy for the Soviet republic as we understand it to be.

We do not seek to force upon the United States a form of government not suitable to the genius of its people. We do not approve of any attempt to force a

form of government upon Russia which is not suitable to the genius of its people.

The Soviet form of government seems to be good for Russia. The parliamentary form of government seems to be good for the United States. We sympathize with the Russian workers, the Russian peasants, the Russian Socialists, the Russian Communists, in maintaining their Soviet government — not because it is a *Soviet* government, but because it is a government of their own choosing. Suppose they had adopted a different form of government, say one that had sprung from the Constituent Assembly, we should not support it any the less. We support their government because it is theirs, and because they want it. We do not believe the political nursery tale that it was *forced* upon the people of Russia by Lenine and Trotzky, or by a handful of agitators. If, in the twenty-eight months of its existence, no counter-revolutionary powers within, no military powers from without, have been able to disrupt it, there must be reason for its existence. A government entirely arbitrary, fictitious, enforced upon an unwilling people, will not endure under such conditions.

We do not lose sight of the fact that much of what has been done by that government has been crude; that some of what it has done has probably been wrong. It would have been a marvel for them not to have blundered in the conditions confronting them. But we consider the centuries of mismanagement behind them, and the chaos that it has fallen upon them to try to put in order; the industrial and economic breakdown of the former regime; the political breakdown; the shakedown of all the institutions; the collapse of the war; the intervention of foreign powers; the blockade; the destruction of their means of transpor-

tation. After our own revolution in 1783, it took a great many years for the country to settle down to a normal national existence, and we only had at that time three or four million people. They have a population of 160,000,000. If the hostility and aggression from the outside ceases, if trade is restored with Russia, if Russia is given a chance to rebuild its shattered economy, Russia will become stable, practical, and realistic and may develop into one of the most advanced and enlightened nations of the international brotherhood (pp. 1317-1352).

The existence of a Socialism in practice anywhere in the world fills Socialists with hope. They find inspiration in the courage and steadfastness with which they believe the Russian Socialists have maintained their ideals in the face of overwhelming difficulties. These were the feelings expressed at the meetings to commemorate the second anniversary of the Soviet republic at one of which Mr. Waldman and Mr. Oneal spoke (pp. 309, 411) and another of which was addressed by Mr. Claessens (p. 230) and Mr. Wilfrid Humphries (p. 1035). Mr. Waldman, for example, said:

"To-day in Russia, they have founded a new state which is a state *based upon the divine right of humanity*. . . . It says to the world that the function of the state is not to be mere policeman, to be the jailer, and the judge, and the tax collector and the conscript, but the function of the state is to organize the industries, the wealth, the resources, human and material, for the purpose of establishing things as they should be."  
(p. 311)

This was the hypothesis about Russia upon which he said in conclusion that America ought to be made

more like it (*p.* 316). This is the hypothesis upon which other Socialists speak of Russian idealism, inspiration, and example. Debs, condemning the bloodshed and recognizing the mistakes of Soviet Russia (*p.* 431) finds it the symbol of the rise of the common man:

“Now, for the first time in history, his bowed head lifted, he stands erect, and is beginning in his grim strength to shake off the manacles, straighten himself in the sunlight in his gigantic attitude, opening his eyes, beginning to see for the first time, beginning to ask . . . why it is that he must support all the banquets of the world that he may not taste. He is beginning to *think*. That is Bolshevism! That is the revolution in Russia! That is the beginning of the end of capitalism and the end of the beginning of Socialism.”  
(*pp.* 428-9)

It is natural that there should be among Socialists some who think they find in the Russian revolution not only an inspiration towards the accomplishment of Socialist ideals, but a practical method. An extraordinary theory of evidence was announced by counsel for the committee:

“Every pamphlet, every declaration, every speech, every statement of every man who is affiliated with or belongs to that party, not necessarily in a technical sense of belonging to it, but everybody who upholds those claims, who supports those principles, who stands upon that platform, is bound by the speeches, the sentiments, the writings, the books, the publications of every other man affiliated with that association, whether they

were present at the time when it was made or they were uttered, or whether they were absent.”  
(*Stanchfield*, p. 335 — *again* pp. 374, 380).

Upon this theory there have been introduced into evidence statements by various individuals proposing or approving the formation of workers' and soldiers' councils or expressing the hope that we might have a Soviet government here. These persons speak for themselves only, not for the Socialist party or for the Socialist Assemblymen. We believe that these persons are entirely within their rights as Americans in expressing their views. As the chairman remarked during the proceedings, if a majority of the people of the United States declared for a Soviet government, we should have to live under it. They would be entirely within their rights as Socialists in trying to get their views accepted by the Socialist party. Their views have not been accepted by the Socialist party.

A group formerly in the Socialist Party went so far in enthusiasm for Russian formulas as to consider them presently applicable to the utterly different governmental and economic conditions in the United States. In the New York Call on May 21, 1919, Morris Hillquit criticised this element as follows:

“The ‘Left Wing’ movement, as I see it, is a purely emotional reflex of the situation in Russia. . . . I am opposed to it, not because it is too radical, but because it is essentially *reactionary and non-Socialistic*; not because it would lead us too far, but because it would lead us nowhere. To prate about the ‘dictatorship of the proletariat’ and of ‘workers’ soviets’ in the United States at this time is to deflect the Socialist propaganda from its realistic basis.” (p. 1264).

This is the only statement in the record as to the basis of the controversy which resulted in the separation of the Communist and Communist Labor parties from the Socialist party. When the attempt has been made in this proceeding to hold the Socialist party responsible for the expressions of these former members, we have of course, objected. But the statement made by counsel for the Committee (p. 2181) that we have made a charge that the Communists advocate violence is absolutely incorrect. Mr. Hillquit testified that he *does not believe that they advocate violence* (p. 1466). Counsel is as correct as to the fact as he is wrong in his insinuation when he points out that our difference with them is one of method and policy. They deny our qualifications to expound their theory, and we have no confidence that we can state it in a form which they would accept.

## VI

**International Socialism, both in theory and practice, is consistent with the duties of national citizenship and the ideal of patriotism.**

### *(a) The Facts as to International Connections.*

The Socialist Assemblymen, said Mr. Littleton, on behalf of the Committee, "gave their allegiance wholly and solely to an alien and invisible empire known as the Internationale." (p. 104) Pledged "in dark places and in secret ways," they come as "hired agents of a group of aliens." (p. 199) "Let us see what these gentlemen are endeavoring to further as part of the program of Mr. Lenine and Mr. Trotsky." (p. 106)

During seven weeks of testimony the echo of Mr. Littleton's eloquence had receded into an agreeable but irrelevant memory. In closing, however, counsel for

the Committee, accepting Mr. Littleton's legacy, have undertaken to reconstitute the invisible empire upon the basis of a presumed submission by the American Socialist party to the domination and doctrines of the Communist party of Russia expressed in the so-called Moscow Manifesto and Governing Rules. This basic presumption of counsel's finds no support in the evidence. The facts as to the International relations of the American Socialist party are as follows:

The First International of Socialism, founded by Marx and Engels, existed from 1863 to 1872. It was disrupted by the controversy between the Socialists and anarchists.

The Second International was founded in 1889. It had no constitution or formal political program. It consisted of a series of conferences, at irregular intervals, between delegates of Socialist parties from different countries. It existed principally for the exchange of Socialist experience, views and theories. The delegates discussed and adopted declarations of principles, which had a high moral authority among Socialists, but to which it was never attempted to attach binding obligation. (*pp.* 1267-77; 543)

The International was prevented from holding conferences during the European War. The parties that constituted it are now hopelessly divided by questions arising out of the war, and after-war conditions. The conferences of the International had agreed upon the propositions that modern wars and militarism are generally due to commercial rivalries; that their burdens, both of taxation and death, fall most heavily upon the working class; that wars will occur so long as capitalism remains dominant, breeding commercial rivalries; that they operate to perpetuate national antagonisms and divert the attention

of the workers of different countries from their common interest in establishing cooperative commonwealths and spreading the spirit of universal brotherhood; that the Socialists in every country should do all in their power to prevent wars, and, when wars break out notwithstanding, vote against war budgets and do all they can to bring the war to a speedy end. (*International Declarations as to War*, pp. 1291-1304.) In the European War there were schisms in the Socialist parties of every warring country; groups which were for pressing the war to the bitter end; groups which were for supporting the war insofar as it was defensive; and groups steadfast against any voluntary participation or support (pp. 546, seq.; 1283; 1304). Some of the pro-war parties, moreover,—notably the majority Socialists of Germany led by Scheidemann and the French group led by Thomas, have been, in Marxian phrase *untrue to the principle of the class struggle*, in that they have entered into coalition ministries or parliamentary blocs with non-Socialists; this in Socialist theory tends to prolong the predominance of capitalism. (pp. 1444, 1447)

The Socialist parties which opposed the war and have not entered into parliamentary coalitions constitute the *uncompromising revolutionary section of the International Socialist Movement* (p. 1494). They include the Socialist Party of the United States, the Independent Labor Party of England, the Independent Socialists and the Spartacides of Germany, the Socialists of France led by Longuet, now the majority party there, the Socialist Party of Italy, the Socialists of the Scandinavian countries, the Communist or Bolshevik party of Russia, and others. (p. 1353)

Soon after the armistice the remnants of the Second International held a conference at Berne from which

they excluded the Russian Communists. (pp. 2019, 2107) In March, 1919 the Communists of Russia called a conference at Moscow to organize a Third International. The conference was composed largely of delegates from the Communist Parties of Russia and the states bordering Russia, where conditions are similar (1343)—where they are either in, or just emerging from, a “devil take the hindmost” state of semi-anarchy in which a daring and resolute revolutionary coup might make the difference between dictatorship of the proletariat and dictatorship by a bloody and ferocious private autocrat. The utterances of even the most moderate and intelligent thinkers among them necessarily reflect the facts and experience of their own conditions, from which the facts of life and thought in Western Europe and America are remote. The conference was dominated by the Russian Communists. The “delegates” from other countries were largely present only on their personal responsibility, without the authority of their parties. There was no representative of the American Socialist Party. (pp. 1343–4) The so-called Moscow Manifesto and “Governing Rules” in evidence (p. 279 *seq.*) undoubtedly emanated from this conference. (p. 1476) These documents are published without authentication. It has been the theory of counsel for the Committee that the Manifesto adopted at Chicago was a “response” or echo to the Moscow Manifesto. *The Moscow documents have never been officially before the Socialist Party, and the party has never expressed itself in any way with respect to them.* (pp. 1474–77) Mr. Hillquit had not read them when he drafted the Manifesto adopted by the Socialist Party at Chicago in September. (p. 1477)

His opinion of the Moscow conference, expressed in a letter to the Call in May, was that it

“made the mistake of attempting a sort of dictatorship of the Russian proletariat in the Socialist International and was conspicuously inept and unhappy in the choice of certain allies and in the exclusion of others. . . .

*“The task of organizing the Third International is still before us.”* (pp. 1262–3)

Mr. Oneal reported to the National Executive Committee in May that the Berne conference comprised elements that had compromised their Socialism (pp. 2019–24). He was able in London to secure “some information” about the Moscow Conference (p. 2021). Its members were consistent, uncompromising revolutionary Socialists — opposed to war and opposed to coalition. (p. 2023) Mr. Oneal’s opinion was that it will take time to rebuild the International on a sound foundation:

“The process of getting together is now under way and will proceed more rapidly as the wounds of the war are healed. Whether the party desires to take any immediate action regarding the International upon the basis of our knowledge is for the party itself to determine.” (p. 2024)

In the summer, the party voted by referendum to participate “only in an International including the Communists of Russia and the Spartacans of Germany.” (pp. 2028, 2106)

At the Chicago convention in September the party reiterated that its position is squarely with the “uncompromising section of the International Socialist

Movement" and condemned European Socialist who had supported the war and entered coalitions. (p. 305; p. 1397) The question of forming or joining a new International came up in the convention.

Counsel for the Committee declared specifically on at least three separate occasions in his closing argument that the party at the *Chicago convention* voted to affiliate with the Moscow International, citing each time the passage in which the party declared its solidarity with or pledged its support to the workers of Russia "in the support of their Soviet government." **The fact is exactly the contrary.** The passage cited by counsel is a declaration of sympathy with the *Soviet government* — by no means the same thing as the Moscow International.\* **The convention in fact voted against affiliation with the Moscow International.** The resolution as to international affiliation which was adopted by the convention ("Majority Report," p. 327:1805) repudiated the Berne Conference, and proposed the speedy convocation of "An International Socialist Congress." It proposed to "INVITE" the Communists of Russia and Germany and "those Socialists of all countries which subscribe to the principle of the class struggle. No party which participates in a government coalition with the parties of the bourgeoisie shall be invited." This was most emphatically *not* a resolution of affiliation with the Moscow International. It proposed making a fresh start for the convocation of an entirely new International.

A *minority* at the Chicago convention submitted an

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\* The Russian Soviet Republic is one institution; the Communist or Bolshevik Party is another; the Third International is another (pp. 1339 *seq.*). The facts that the Communist Party is the party in power in the Soviet Republic, and that Communists dominated the Moscow Conference, do not merge the three entities into one.

alternative resolution to referendum under section 9 of article X of the Party Constitution. (p. 1056) It recites that the *uncompromising revolutionary Socialist parties of various countries*

“are uniting on the basis of the *preliminary convocation*, at Moscow, of the Third International” (p. 327).

This is the resolution which was adopted by the membership through a referendum which closed January 13, 1920, and *not at Chicago; its adoption did not in fact become operative, and the Socialist Party was not in fact pledged to affiliation with the Moscow International, until after these hearings had commenced.* (p. 1502) *The affiliation is not now an accomplished fact. No delegate has been chosen. No communication has been had.* The language of the resolution of affiliation is this:

“The Socialist Party of the United States, therefore, declares itself in support of the Third (Moscow) International, *not so much because it supports the Moscow programs and methods, but because:*

“(a) ‘Moscow’ is doing something which is really challenging to world imperialism.

“(b) ‘Moscow’ is threatened by the combined capitalist forces of the world simply because it is proletarian.

“(c) Under these circumstances, *whatever we may have to say to Moscow afterwards, it is the duty of Socialists to stand by it now, because its fall will mean the fall of Socialist republics in Europe, and also the disappearance of Socialist hopes for many years to come.*” (p. 327)

To this resolution and to these facts counsel for the Committee have not referred. The ratification of this resolution is the one and only basis of the Socialist Party's affiliation with Moscow.

The framers of the resolution obviously regarded association with the Moscow International as a measure of moral support for the Russian Socialist Republic, whose dominant party had initiated the Third International, in its concrete struggle to maintain its existence.

Alexander Trachtenberg, a supporter of this minority resolution, urging party members to vote for it rather than for the majority resolution in a letter to the Call on November 26, 1919, presented, among others, these reasons: *that an attempt to organize another International would come into conflict with this already created and popularized International; and the desirability of giving moral support to the Russian Socialists who initiated it.* (p. 1255) He added:

**"The minority report is perfectly right when it claims that our party, if affiliated with it, will have an equal share in the formulation of the principles and policies upon which it will be based. Our affiliation at this time can only mean a moral affiliation."** (pp. 1255-6.)

In the resolution of affiliation, approval of the "Moscow programs and methods" WAS EXPRESSLY WITHHELD. The meaning and effect of the action of the Socialist Party in adopting the resolution is exactly as stated in the testimony:

"It means that at some time or another within half a year or a year the representatives of all these countries will come together. Russia will be there, *but only as one nation*. The other nations will be there with overwhelmingly larger repre-

sentation than Russia, and they will come together and say, 'New let's agree upon a program and upon policies; what do we stand for?' And that will be the time when the true character of this Third International will be fully defined." (p. 1353)

"All we say in deciding to join the Third or Moscow International is that the Second International or whatever was left of it has thoroughly disappointed us, that we are ready to join forces with what is called the new or Third International. We do so with the express reservation that we will not accept the dictates of any body of men or any national organization, whether it be the Russian Socialists or any other Socialists, but we reserve to ourselves the right when we get together in the proper time to urge the adoption of such general principles as will then seem proper. . . ." (p. 1287).

#### **TO SUMMARIZE:**

**The Communist Party of Russia is one which stands firmly against militarism and which, through the Soviet Government in which it is predominant but with which it is not identical, is engaged in the actual establishment of Socialism. The American Socialist Party wants to associate in international conferences with the Russian Communists and with other Socialist parties the world over who stand uncompromisingly for Socialism and against militarism and war for the maintenance or extension of capitalism. The American Socialist Party sympathizes with the effort of the Russian Socialist Republic to maintain itself in the face of the obstacles put in its way by international capitalism. In the American Socialist Party one group would have preferred to invite the Russian Com-**

munists into an entirely new International, rather than to join with them in an International at the first conference of which, in the absence of adequate representation from Socialist Parties of other countries, Russian Communists had dominated without opposition or discussion. Another group in the American Socialist Party felt that such action might in such a time as the present be construed as expressive of lack of sympathy with the efforts of the nation controlled by the Russian Communists to maintain its Socialist Republic. The latter view prevailed and the American Socialist Party has voted to join in the Moscow International, **MAKING CLEAR AT THE SAME TIME, HOWEVER, THAT IT DOES NOT COMMIT ITSELF TO RUSSIAN COMMUNIST DOMINATION, PROGRAM, OR METHODS.** The theory that we joined an invisible empire presided over by Russian Communists is a simple humbug.

*(b) The International Theory of Socialism.*

The Socialist Party is not an anti-national party. Socialists recognize the existence of nations and their right to exist as nations, and also the great cultural contributions of nations as nations to the civilization of the world; in fact, the Socialist Party, more than any other party, has always stood for the right of nations to maintain their own unhampered existence and independence. It has been a warm and consistent friend of the Irish movement for national independence. It was for Polish independence before the statesmen of Europe and America ever were made to be aware of the existence of such a problem. It has the same feeling towards the aspirations of all nationalities to independent national existence. But the fact that we recognize national existence and national rights — the national

*entity* — does not limit our interests and concern to one nation in each case. We recognize that to-day nations and peoples have become, whether aware of it or not, members of the international community.

Socialism is international in the sense, first, that its platform, its program, its ideals and aspirations are substantially the same in every country. It is international in that it co-operates with similar movements in every other country, in joint discussion of problems, at congresses. It is international, finally, in the sense that we have a vision of an international federation of free socialist nations, which eventually will come to exist and guarantee the well-being and the national security, the national existence and the peace of all nations.

Internationalism is not a peculiarity of Socialism. Capitalism is international, so is banking, so is commerce, so is industry, so is science, so is art, so is all modern life. Even governmental functions are becoming more and more internationalized. There are at least a dozen international governmental institutions, such as postal unions, for example, in which the governments of all civilized countries participate. There are between 200 and 300 social, political and educational organizations on an international basis, meeting in international congresses, just as the Socialist parties meet, discussing their problems, passing resolutions.

The American Federation of Labor — the conservative labor movement led by Samuel Gompers — is affiliated with an International Labor Bureau which is in every respect parallel to our International Congresses in function, coming together periodically, having an International Executive Committee, having an International Secretary, having international publications and discussing matters of common concern to the labor

movement of the world — such as hours of labor, wages, immigration, safeguards in factories, and other concrete propositions.

A very notable example of another kind is the Catholic Church. The Catholic Church is one definite international organization, actually claiming authority over its members in all countries of the world, and actually having a supreme pontiff to direct the spiritual policy all over the world. The Reverend John A. Ryan of the Catholic University of America wrote as follows to one of counsel for the Assemblymen:

“Possibly my desire to see your personal cause triumph” — meaning this cause — “is not altogether unselfish. For I see quite clearly that if the five Socialist representatives are expelled from the New York Assembly on the ground that they belong to and avow loyalty to an organization which the autocratic majority regards as inimical to the best interests of the State, a bigoted majority in a State, say, in Georgia, may use the action as a precedent to keep out of that body regularly elected members who belong to the Catholic Church, for there have been majorities in the Legislature of more than one Southern State that have looked upon the Catholic Church exactly as Speaker Sweet looks upon the Socialist Party.”

At a time when our administration is straining every nerve to bring about what it is pleased to call a League of Nations, an international government of which the entire country is to become part, it is somewhat late to charge against us as a crime that we recognize the international solidarity of men alongside of the existence, rights and functions of national governments.

(c) *Patriotism and Internationalism.*

International Socialists are not a whit less patriotic than other people. Patriotism is a human characteristic different in nature and quality from either a *reasoned conviction or principle* (as that *honesty is the best policy*) or from a *duty* (such as that to pay taxes). Patriotism is rather an attribute of the same kind as love of home, wife, children — the emotion that attaches to the people, place, and things that one thinks of oneself as belonging to.

Patriotism carries with it, however, a *principle of conduct* — concern for the well-being of the people, place and things that make up country. But patriotism cannot impose fixed *rules of conduct*; for different persons hold different opinions as to how best to work for the well-being of what they care about.

"Patriotism," said Theodore Roosevelt.\* means to stand by the country. It does not mean to stand by the President or any other public official *save exactly to the degree in which he himself stands by the country.*"

Socialists think that the ultimate well-being of *all* the people (not the working class alone) in *all* the advanced nations of the world depends upon the development of *international working class solidarity*. That is the instrumentality through which hate and oppression are to be eliminated, and nations redeemed from chaos and made good places for people to live in. National patriotism, therefore, with Socialists, expresses itself in adherence to the ideal of international working class solidarity. They believe that the "My country, right or wrong" type of patriotism — originating though it does in deep and genuine emotion — debases patriotism by making it unintelligent; a man who steals his neighbor's fur coat for his wife because he is devoted

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\* Metropolitan Magazine, May, 1918.

to her in the long run does only harm to himself, to his wife, and to his neighbor. They hold that it is not unpatriotic to uphold as against this false doctrine of national patriotism their ideal of international working class solidarity. (*pp.* 1424-25)

## VII

The Socialist party during the war was true to its conception of the welfare of the American people.

### (a) *Americanism.*

“ With respect to the war in which we are now involved, the course which our principles require us to pursue cannot be doubted. It is now the law of the land, and as such we are bound to regard it. Resistance and insurrection form no part of our creed. If we are taxed to carry on this war, we shall disregard certain distinguished examples and shall pay. If our personal services are required, we shall yield them to the precise extent of our constitutional liability. At the same time the world may be assured that we know our rights and shall exercise them. We shall express our opinion on this, as on every measure of the government — I trust without passion, I am certain without fear ” (*Exhibits, p.* 566).

Daniel Webster said this in 1814. He spoke, not for himself alone, but for the political party which was then, in the third year of conflict, opposing the disastrous second war with England.

The Socialist Party has been saying exactly the same thing during the war through which we have passed. It opposed our entrance into the war. It

demanding the cessation of the war. It bowed to the fact and the law; Socialists paid their taxes; Socialist conscripts are dead in France. We believe that the prosecution of the war meant intolerance and persecution, damming the current of social progress; that it meant death, pestilence, vengeance, hate and the seeds of future wars. We did not believe that it would accomplish anything good — certainly nothing commensurate with the degree of sacrifice required. We did not believe that human civilization or the human spirit would be advanced.

We bowed to the fact, but our minds did not bow to what we thought untruth. We did not abdicate the duty of Americans to contribute our earnest convictions to the laboratory of public discussion through which constitutional democracy tries continually to come to right decisions about what ought to be done next.

We were absolutely in accord with Americanism as it is written in American history. Private property in human beings was a right recognized by both constitution and laws. Elijah Lovejoy denounced it; a mob burned him at the stake. It is not their Americanism, but his, that is remembered with honor. Charles Sumner opposed slavery; State street thought that property was property, and conditions ought not to be unsettled; he was ostracised socially by the "best people" of Boston. It was not the "best people" of Boston that our school books taught us to respect. Nor were we taught to admire the pro-slavery politicians who cajoled and stampeded a Congressional majority into declaring an unjust war with Mexico — their theory being that the annexation of Texas would give them territory from which to carve out a group of new slave states, whose Senatorial representa-

tion would protect their interests in human property against the rising movement for human freedom. President Polk said, as a President in such a position is sure to say, that the war was just, and criticism of it erroneous. "A more effectual means," he added, "could not have been devised to encourage the enemy to adhere to their cause, and thus give them aid and comfort." \* But Sumner did not stop criticising, nor Calhoun, nor Webster, nor Abraham Lincoln, nor did thousands of other loyal and patriotic Americans, both notable and obscure.† "If I believe the executive is wrong in any of his measures," said Representative Hudson of Massachusetts in answer to this statement of President Polk's, "I will make the declaration. . . . Why, sir, if this doctrine prevails, the more corrupt the Administration is . . . the greater its impunity; for the moment it has succeeded in committing that outrage, every mouth must be closed and every one must bow in submission."‡ Joshua Giddings of Ohio said that "he was aware that an idea was extensively indulged that whenever our country was engaged in a war, whether just or unjust, every true-hearted American was bound to support it with all his power. He denied it utterly." § Charles Sumner said the Declaration of War had carried desolation into a thousand homes, "while the uncoffined bodies of sons, brothers, and husbands are consigned to premature graves;" that "the Army of the United States has been converted into a legalized band of brigands, marauders, and banditti;" and further, as to the ur-

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\* (*Cong. Globe*, 20th Cong., 2nd Sess., p. 4)

† A number of quotations from public men in opposition to the Mexican War and to the War of 1812 during their pendency are contained in Assemblymen's Exhibit 14, Exhibits, pp. 563 seq. The title erroneously attached to this exhibit, "Extracts from Sea Power, etc," refers properly only to the first two pages of it.

‡ (*Cong. Globe*, 29th Cong., 2nd Sess., pp. 49 seq.)

§ (*Cong. Globe*, 20th Cong., 2nd Sess., p. 34)

gency to prosecute the war to a speedy and successful termination:

“Surely no rule can be better founded in morals than that we should seek the establishment of *right*. How, then, can we strive to hasten the triumph of wrong?” \*

The pro-slavery politicians succeeded not alone in causing the government to carry through an unjust war; if we may take the word of the New York Legislature, they dominated the Supreme Court of the United States, effecting through the *Dred Scott* decision a theoretical extension of slavery into free territory. The following is quoted from the report of a joint committee of the New York Senate and Assembly on the *Dred Scott* case (*Assembly Document No. 201, 80th Session, Vol. 3*):

“Your committee have no hesitation in expressing the opinion that this decision is erroneous and ought to be overruled. . . . They” (referring to the justices of the Supreme Court) “have destroyed the confidence of the people in the court by stamping upon it a black mark of sectionalism and partisanship. . . . The influence and power of the court having now been marshalled on the side of pro-slavery propagandism, . . . it no longer accomplished the purpose of its institution. The safety and peace of the nation require its reorganization.”

The Report concludes with the announcement of the proposition

“that slavery shall never pollute the free soil of the Empire State, *let the consequences be what they may.*”

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\* *Sumner's Work, ed. Lee & Shepard, Vol. 2, p. 321.*

The joint resolution of the New York Legislature adopting this committee report (*Assembly Journal, 80th Session, p. 1543*) has been read into the record (*pp. 1496-97*).

Neither the Mexican War nor the Dred Scott decision stopped the revolutionary process of freedom. Nor was it driven to violent or unlawful measures. It addressed the minds of Americans. It organized mass demonstrations, mass petitions, mass protests. It organized the Republican party for revolutionary action in the political field — with such success that Senator William H. Seward (soon to be Lincoln's Secretary of State) could say in a speech at Rochester in 1858:

**"I know, and you know, that a revolution has begun. I know, and all the world knows, that revolutions never go backward. Twenty Senators and a hundred Representatives proclaim boldly in Congress today sentiments and opinions and principles of freedom which hardly so many men, even in this Free State, dared to utter in their own homes twenty years ago. While the Government of the United States, under the conduct of the Democratic Party, has been all the time surrendering one plain and castle after another to slavery, the people of the United States have been no less steadily and perseveringly gathering together the forces with which to recover back again all the fields and all the castles which have been lost, and to confound and overthrow, by one decisive blow, the betrayers of the Constitution and freedom forever."**

The Republicans carried the next national election. Lincoln took the oath as President to support the Con-

stitution and laws of the United States — which included section 3 of article IV of the Constitution:—

“No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.”

He and his fellow Republicans took it without falsehood or mental reservation, even though they stood committed to use *all the means in their power* to make it a dead letter. Probably the legislators of the State of New York, for all the heat and height of their rhetoric about the *Dred Scott* case, took their oaths of office also without reservation, and would not have prevented the proper officers of the law under proper process from delivery to his owner a slave found in the city of Albany.

What followed Lincoln's election strikingly illustrates the Socialist doctrine that *revolutionary violence does not originate with revolutionary parties*. The Republican Party had the political strength to enact its revolution. In moral substance, the revolution was accomplished. The beaten minority treated the power as the fact. Between Lincoln's election and his inauguration the Southern states had seceded and formed the Confederacy, and the Civil War had commenced. It was not Lincoln or the Republican Party that started it.

The Republican Party met force with force, and in the zones of military operations it made military authority supreme. But it was too firmly grounded in the principles of Constitutional Democracy to suppress *political* opposition. Instances of things for which opposition members of Congress were *not* excluded from

Congress will be found later in this brief — the cases of Stark, Bright and Powell, part two, section 7. Horatio Seymour on an anti-war ticket was Governor of New York. Historians think it likely that if the election of 1864 had come a few months earlier Lincoln would have been beaten for re-election by General McClellan, running on a platform demanding that "immediate efforts be made for a cessation of hostilities," and declaring that military interference with border states within the zones of military operations was shameful, and that

**"a repetition of such acts in the approaching election will be held as revolutionary, and resisted with all the means and power under our control"** (*Exhibits*, p. 564).

The definition of Americanism written in history excludes neither McClellan, Horace Greeley, and Horatio Seymour, nor the great forerunners of what was to be the Republican Party for their course during the war with Mexico.

(b) *The Socialist Theory of War.*

The Socialist Party's theory of war was not adopted with particular reference to the war in Europe. The same views have run through all the declarations of International Socialism, from the Lausanne Conference in 1867, to July 29, 1914, when the International Bureau issued its final appeal for peace (pp. 1291-1304). The following is quoted from the resolution adopted by the Socialist Congress at Stuttgart in 1907:

"Wars between capitalistic states are as a rule the consequences of their competition in the world's market, for every state is eager not only to preserve its markets, but also to conquer new ones,

principally by the subjugation of foreign nations and the confiscation of their lands. These wars are further engendered by the unceasing and ever increasing armaments of militarism, which is one of the principal instruments for maintaining the predominance of the bourgeois classes and for subjugating the working classes politically as well as economically.

"The breaking out of wars is further favored by the national prejudices systematically cultivated in the interest of the reigning classes, in order to turn off the masses of the proletariat from the duties of their class and of international solidarity.

"Wars are therefore essential to capitalism; they will not cease until the capitalistic system has been done away with, or until the sacrifices in men and money required by the technical development of the military system and the revolt against the armaments have become so great as to compel the nations to give up this system.

"Especially the working classes from which the soldiers are chiefly recruited, and which have to bear the greater part of the financial burdens, are by nature opposed to war, because it is irreconcilable with their aim; the creation of a new economic system founded on a socialistic basis and realizing the solidarity of the nations.

"The Congress therefore considers it to be the duty of the working classes and especially of their parliamentary representatives, to fight with all their might against the military and naval armaments, not to grant any money for such purposes, pointing out at the same time the class character of bourgeois society and the real motives for keeping up the antagonisms between nations, and

further to imbue the young people of the working classes with the socialist spirit of *universal brotherhood* and with class consciousness. . . .

"The International cannot lay down rigid formulas for the action of the working classes against militarism, as this action must necessarily differ according to the time and the conditions of the various national parties" (pp. 1297-98).

As illustrations of effective working class action, the resolution cites:

"The understanding arrived at between the English and the French trade unionists after the Fachoda crisis, which served to assure peace and re-establish friendly relations between England and France; the action of the Socialist parties in the German and French parliaments during the Morocco crisis; the public demonstrations organized for the same purpose by the French and German Socialists; the common action of the Austrian and Italian Socialists who met at Trieste in order to ward off a conflict between the two states; further, the vigorous convention of the workers of Sweden in order to prevent an attack upon Norway" (p. 1299).

The resolution concludes:

"In case war should break out notwithstanding they shall be bound to intervene for its being brought to a speedy end, and to employ all their forces for utilizing the economical and political crisis created by the war in order to rouse the masses of the people and hasten the duntread of

the predominance of the capitalistic class" (p. 1300).

The theory of the commercial origin of modern wars is not the invention or exclusive property of Socialism. It is accepted, among others, by President Wilson. He said at St. Louis, September 5, 1919:

**"Peace? Why, my fellow-citizens, is there any man here, or woman, who does not know that the seed of war in the modern world is industrial and commercial rivalry? This war was a commercial and industrial war. It was not a political war."**

It is accepted generally among economists. It is the theory proclaimed and avowed by the Navy League — an organization of the greatest financiers and manufacturers in the country formed in 1915 to carry on a propaganda for armaments. The Navy League and the Socialist Party disagree, not in philosophical premise, but in practical conclusion; the Navy League says that the protection against war is to become omnipotent, both commercially and in military power; that "world-empire is the only logical and natural aim for a nation that desires to remain a nation." \* The Socialist Party says that the rational remedy for war is to supersede the system of commercial rivalries with a scientific system of production and distribution based upon consumers' needs instead of upon producers' profits. Socialists believe that competition in armaments is the immediate provocation of war, not a protection against it. They ridicule the notion that "Preparedness" is a protection against war.

In the period from 1914 to 1917 Socialists noted

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\* (*Extracts from publications of the Navy League, Exhibits, pp. 555-556.*)

with indignation the huge profits of war.\* They suspected the "Preparedness" campaign of 1915 and 1916 of being to a considerable extent a deliberate machination on the part of munitions manufacturers active in such organizations as the Navy League to drive the United States into the war for their immediate private profit; the tendency to perceive criminal motives and conspiracies in the operations of political adversaries is not confined to anti-Socialists.

The party opposed with proclamations all agitation to elevate the frenzied aggressions of European combatants into grounds for American intervention (*p.* 1433). Whatever may be thought of the wisdom or moderation of these pre-war statements (one following the sinking of the *Lusitania*, *p.* 1495; one with reference to the U-boat controversy, *p.* 1369, Presidential platform of 1916, *p.* 1374), they proposed nothing that might not lawfully be proposed at their respective dates of publication. It was in this period also, as an expression of the feelings which it engendered in them—and for which they make no apology—that Mr. Waldman and Mr. Claessens signed pledges against voluntary enlistment (*p.* 922: 1826).

War came nearer. Congress was summoned in extraordinary session for what everyone knew would be a declaration of war. The Socialist Party called a convention to meet the week before. The date set for the extraordinary session was advanced from April 16 to April 2. (*p.* 478). Congress declared war on April 6. The Socialist convention met at St. Louis on the day following. It adopted the Proclamation and Platform setting forth the Socialist position.

For these documents the Socialist Party offers no apology or retraction. The phraseology would have

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\* See data from the Federal Trade Commission's Report on Profiteering, Exhibits, *pp.* 558-561.

been different under different circumstances (p. 1359), but the position asserted is our true position which we abide by. The Socialist Party determined to oppose the war by all means in its power. It considered mass demonstrations as the appropriate form of protest for a political party. It warned the workers not to be taken in by the pretense made in all countries that the war was defensive rather than economic. (pp. 1428-30) Agreeing with the view expressed in the Stuttgart resolution (p. 73, *supra*, it "emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions;" economic life goes on in war more tensely than in peace; huge profits are piled up; concentration of capital and of the power of capital increases; hard-won palliative conditions and hours are in constant danger; capital is watching labor as eagerly as labor is watching capital for a chance to clinch or snatch an advantage. It called upon the workers of all countries to refuse support to their governments in their wars. **It did not call upon anyone anywhere to do any act in violation of any law** (pp. 1359, 1432, 1384, 1485, 1757, 1831).

(c) *Prosecution for Opinion.*

It has been emphasized that Socialists, including the leader whom all Socialists hold in highest honor, have been arrested, and some of them tried and convicted; that some of them are in jail; that indignation at the manner in which the Espionage Act was administered and interpreted and sympathy for persons convicted, including non-Socialists, are general among Socialists (pp. 1486-93). The application of this to the questions before the Committee is somewhat obscure. Whether it is offered to sustain a charge or to imply an aspersion, we are glad to meet it. We shall not attempt to re-try here particular cases; but we shall state the principles

and general circumstances upon which our criticisms rest.

The patriotic thing for Socialists to do was to oppose a war which they believed inimical to the interests of the people of the United States. No law told them not to. No law could tell them not to.

The First Amendment to the Constitution says:

“Congress shall make no law abridging the freedom of speech or of the press.”

The first important commentator on the First Amendment, Judge Tucker, writing in 1803, said:

“Every individual, certainly, has a right to speak or publish his sentiments on the measures of government; to do this without restraint, control, or fear of punishment for so doing, is that which constitutes the genuine freedom of the press.” — (Tucker’s Blackstone, note 8.)

The United States Supreme Court, in *Reynolds v. United States*, 98 U. S. 145, 164, discussing the First Amendment, quoted the language of Thomas Jefferson in his Preamble to the Virginia Toleration Act of 1785:

“To suffer the civil magistrate to intrude his power into the field of opinion, or to restrain the profession or propagation of principles, on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he, being, of course, judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own. It is time enough for the rightful purpose of civil government for its officers to interfere when principles break out into overt acts against peace and good order.”

As to this the Court said :

“Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. *Congress was deprived of all legislative power over mere opinion*, but was left free to reach actions which were in violation of social duties or subversive of good order.”

Neither the war nor the war laws imposed upon Americans a duty either to abdicate the right of individual judgment or to keep their thoughts to themselves.

In prosecutions during the war the affirmative right to oppose the war was recognized whenever the question arose. Judge Mayer of the Southern District of New York said in *United States v. Scott Nearing* (Feb. 1919) :

“No citizen is under a duty to bow to the opinion of his fellow citizens, or to maintain silence as to his dissent, or to serve his country in violation of his principles, or affirmatively promote its cause where he disbelieves in it, except to the extent that such duties have been affirmatively imposed upon him by law. **There has been no conscription of opinion, belief, or expression in the United States.**”

Judge A. N. Hand said in *United States v. Eastman* (May, 1918) :

“Each defendant has the constitutional right of freedom of speech also, unless he violates the

express law which he is accused of violating, no matter how ill-timed, unsuited to your sense of propriety, or morally wrong his opinions, utterances or writings may be. . . .

"It is the constitutional right of every citizen to express his opinion about the war or the participation of the United States in it; about the desirability of peace; about the merits or demerits of the system of conscription, and about the moral rights or claims of conscientious objectors to be exempt from conscription. It is the constitutional right of the citizen to express such opinions, even though they are opposed to the opinions or policies of the administration; and even though the expression of such opinion may unintentionally or indirectly discourage recruiting and enlistment. . . ."

It was not through any prohibition by law that it came about that these rights, theoretically acknowledged, could not in fact be generally exercised.

We had originally, as was the case in all previous wars, two parties on the subject, an anti-war party and a pro-war party. The Democratic party was the peace party; the Republican party was generally considered a war party. It will be remembered that President Wilson was re-elected on the slogan "He Kept Us Out of War." In the keynote speech at the Democratic National Convention at which he was renominated, the Honorable Martin Glynn said:

"The United States is constrained by the traditions of its past, by the logic of its present, and by the promise of its future to hold itself apart from the European warfare. . . ."

"Is there any American so blind to our past, so hostile to our future, that, departing from our policy of neutrality, he would hurl us headlong into the maelstrom of the war across the sea? . . .

"Others may follow the lords of war who ride among the corpses of mankind. We follow the President of the United States and seek inspiration of humanity that aspires to higher things."

Imagine that Mr. Wilson had not been re-elected and that Mr. Hughes had been elected. What would have been the logical development? Just this: That the Republican Party would have drawn us into the war, as they proclaimed their intention of doing very definitely; and the Democratic Party would have remained an opposition party, a peace party. The Democratic Party then, as a matter of policy and consistency, would have taken the position taken by the earlier American opponents of war when war was on. But it so happened that it was a Democratic administration that was drawn into the war, and it became a war party. What could the Republican Party do except to become an ultra war party? And so, instead of a contest between peace and war, we had a contest between war and more war. As a result we developed an entirely un-American psychology, and terror and war hysteria invaded us.

The Espionage Act did not say — and could not have said — that it should be a crime to express certain opinions. But war juries sent people to jail under it for that, and for nothing else. What the Espionage Act said, was simply that it should be criminal to do certain seemingly different things — notably "to obstruct

the recruiting or enlistment service of the United States, to the injury of the service or of the United States," with a deliberate, conscious, wilful intent so to do.

A report of the Executive Committee of the Socialist Party in September, 1919, stated that some two thousand Socialists in all had been arrested "for their opinions." It is not uncharacteristic of the atmosphere and attitude in which such arrests were possible that counsel for the Committee, purporting to state in summing up what he "read" in this report of the Executive Committee, substituted "arrested because of their disloyal activities" for "arrested for their opinions" (p. 2153). Not more than twenty-seven Socialists were convicted under the Espionage Act (p. 2036). The disparity gives some indication of the proportion of the estimated 2,000 whose arrests were on any charge or no charge at all.

The reports of the Attorney-General for the two years from June 30, 1917, to June 30, 1918, show a total of 877 convictions under the Espionage Act during the entire period, with 285 cases still pending at the close. We have not been able to learn of a single case among all of them in which there was any evidence of the infliction upon the recruiting service or any other war agency of any visible or tangible harm or where there was any basis for the conviction except that the defendant had said what he thought.

In the midst of this Debs lifted his voice against capitalism, against the war, and against the persecution of his friends and comrades. He followed them to jail.\* The United States Supreme Court chose his case, with certain others decided at the same time, for their definition of the scope and application of the Espionage Act.

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\* His speeches in the record appear at pp. 2227, 2244 and 426.

Their decision leaves it true that Congress cannot abridge the freedom of speech or of the press — to this extent, that Congress cannot candidly forbid the expression of objectionable opinions or points of view. But, though Congress could not in terms forbid criticism of the war, it is held that it can constitutionally forbid such things as *wilful obstruction of the recruiting service*.

They said:

“The question in every case is whether the words used are used in such circumstances and are of such nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.” (*Schenck v. United States*, 249 U. S. 47.)

“We should add that the jury were most carefully instructed that they could not find the defendant guilty for advocacy of any of his opinions unless the words used had as their natural tendency and reasonably probable effect to obstruct the recruiting service, etc., *and unless the defendant had the specific intent to do so in his mind.*” (*Debs v. United States*, 249 U. S.)

Thus, whether a criticism of the war in fact obstructs the recruiting service is to be determined, not by looking at the recruiting service and seeing whether it has suffered, not by any concrete tangible or visible test whatever, but by looking at the words and giving a guess. The offense contains a second element — *wilful*, that is, conscious and deliberate, intent that the words used should have the forbidden effect. That may, however, be proved by the same evidence. For the law has a hard-working theory that when a forbidden thing may be deemed likely to follow from cer-

tain conduct it may also be deemed to have been intended. Thus as to both elements of the offense — *obstruction*, and *intent to obstruct* — the proof of the pudding is in looking at it through the store window. The question is no longer of “proof beyond a reasonable doubt;” instead, it is enough if there is evidence to sustain a guess.

No one who knows them supposes that Debs or any of the others convicted under the Espionage Act spoke with any thought of the recruiting service actually in mind. There is no proof or presumption that any hearer of any speech was made by it derelict in any duty. Debs “obstructed the war” only in the sense that he sought to convince his public that it would be a good thing to end it. That the exponents, not the consequences, of certain opinions, were what was actually aimed at in Espionage Act prosecutions is shown strikingly by the Stokes case. Mrs. Stokes made a speech to a few women at luncheon. It would never have been heard of. Her indictment spread what she said through the newspapers to practically the whole people of the United States.

We criticise the Espionage Act trials not only because guilt was made a matter of guessing instead of evidence, but also because the persons accused could not under the circumstances have even the benefit of a fair guess.\* Remember the psychology of war-time. Taking for granted either the rightness of the war

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\* While this brief is in press the newspapers have reported the reversal of the conviction of Mrs. Stokes for the unfairness of the trial judge in his charge to the jury. The reversing opinion says:

“When the charge is considered in the light of the time and circumstances surrounding the trial, of the many side issues, and of other characteristics of the charge, this court is unable to resist the conviction that the partisan zeal of the court below led it to place too heavy a burden upon the defendant.”

or a duty of unquestioning support, strictly tutored in an idealistic conception of it, threatened incessantly with bogies of sinister propaganda and subjected to a deliberate campaign to "mobilize the mind of America," \* facing penalties of social ostracism and worse for doubts or questions, the great mass of the American people forgot how to tolerate the normal varieties and diversities of the free human mind. People might still concede the good faith of obstinate, perverse and unreasonable opinions upon such comparatively minor matters as transubstantiation, divorce, and the fair price of wheat. But to suggest even a possibility of honest difference as to the rightness of the war became more immoral than adultery. The millions of Americans whose votes for Wilson in 1916 were votes against war were not all simultaneously converted by Presidential proclamation. But they were eliminated from public opinion. It was felt treasonable to admit the existence of a body of conscientious and law-abiding citizens opposed to the war, complying conscientiously with all requirements of express law, however abhorrent, but who did nothing in support of the war except under compulsion — who kept the minds they had before and thought they had still a right to speak them.

(d) *Appeal to Prejudice in this Proceeding.*

It is upon what survives of this same psychology that the case against the five Assemblymen has come more and more to depend as other elements have dropped away. The iteration and reiteration of expressions of op-

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\*A widely circulated booklet called "The Kaiserite in America" solemnly assured the public that the Socialist Party opposed the war not because it was socialist but because it was pro-German; that it stood with the German Socialist Party of Scheidemann; whereas the "Independent Socialists" of America, such as John Spargo and Charles Edward Russell, were in sympathy with such Independent Socialists in Germany as Liebknecht, Haase and Rosa Luxemburg.

position to the war from the St. Louis Proclamation; the bandying of adjectives — traitorous, unpatriotic, etc., the framing of questions in such a manner as to imply that men who adhere with pride and with a sense of justification by the event to their opposition to the war will want to qualify or deny that opposition or claim to have acted inconsistently with it; the reading in evidence of expressions of a contrary point of view by persons with whose beliefs this proceeding is in no way concerned,— all this can have had no purpose except to revive antagonism here between those who thought the war was good and those who did not.

## VIII

The Socialist Assemblymen took the oath of office in good faith, and they are under no obligation inconsistent with their faithful adherence to it.

There is now no charge against the five Assemblymen except that they are Socialists. "The purpose of this review," said counsel for the Committee in closing (p. 2187), "is not to establish individual guilt but to demonstrate that these five Assemblymen seek seats in this Assembly in order that they may do their part in carrying out the program laid down by their party and assist in the realization of its principles." The only live questions of fact in the case are those relating to the program and principles of the Socialist party.

Of these there remains undiscussed only the claim that members of the Socialist party are *ipso facto* incapable of taking and keeping the oath of office. This claim has three aspects, one general and two specific.

(a) *The claim of general incapacity to keep the oath.*

That the principles of the Socialist party are antagonistic to non-Socialists we freely concede. We aim at fundamental changes. But we are organized not as a secret society, but for

“ participation in elections for public offices and practical legislation and administration work along the lines of the Socialist party platform to gain control of the powers of government in order to abolish the present capitalist system and effect the substitution of the Co-operative Commonwealth.”

Party Constitution (p. 1047-48)

It is a matter of course that we should act within the law. Need we write down the legality of our intentions in our platforms? Does the Republican party? Does the Democratic party? Does anyone when he announces an intention or desire bother to add in express words that he intends to work for it legally? The basic presumption of legality attends all the acts and incidents of life. You cannot say that a man will not keep his oath or his word just because you disagree with him.

(b) *The claim that Socialist legislators are under a duty to oppose military appropriations superior to their duty under the State Constitution.*

Suppose that there was a clear-cut inconsistency between something that the Socialist party constitution said that a Socialist legislator must do and something that the State Constitution said that he must do. Suppose the State Constitution provided that Assemblymen must wear frock coats, and the party constitution said that they should wear blue jumpers. Is there any

doubt what a Socialist Assemblyman would do? He would, with whatever indignation, put on a frock coat — and work for a constitutional amendment legitimizing jumpers.

It is not easy to ascertain precisely what duty is imposed upon an individual legislator by Section 3 of Article XI of the State Constitution. It reads:

“There shall be maintained at all times a force of not less than 10,000 enlisted men, fully uniformed, armed and equipped, disciplined, and ready for active service. *And it shall be the duty of the legislature at each session to make sufficient appropriation for the maintenance thereof.*”

This is a peculiar and unprecedented constitutional provision. It originated in the Constitutional Convention of 1894. Its authors submitted it to the National Guard before submitting it to the convention, and reported to the convention that it had received the approval of every National Guard officer in the State (*Revised Record of the Constitutional Convention of 1894*, p. 1089). The reason for the provision was stated to be that there was nothing in the former Constitution

“which prevents the Governor, on occasions such as we have seen in some of the western states, or any legislature which so desires, from wiping the National Guard out of existence”

(*op. cit.* p. 1092)

It is unusual for a Constitution to declare a legislative *duty*, in derogation of the discretion which is an inherent part of normal legislative function. In the few instances in other States where *constitutional duties* of

*legislatures* have been passed on it is held that this is a kind of constitutional provision for the violation or disregard of which there is no remedy (12 *Corpus Juris* 739, 741). It is difficult therefore to find authority as to its precise application. In the only case which has arisen under it the question was whether the obligation thus imposed upon the Legislature "to make sufficient appropriation" relieved the county of Kings of its pre-established obligation to contribute for the up-keep of armories, and it was held that it did not — that it was the duty of the Legislature to ascertain the *deficiency* of funds available from other sources, and appropriate a sum to cover it. *Matter of Bryant v. Palmer*, 152 N. Y. 412. This throws no light, however, upon the specific duty of an individual legislator.

*Whatever duty the constitution imposes the Socialist Assemblymen stand read to discharge* (pp. 1747 seq). They do not, however, assume to be themselves qualified to state positively the application of this constitutional provision. Does any member of the Committee?

Some negative definition may with confidence be undertaken. An Assemblyman is *not* under a duty to vote for a general appropriation bill containing an appropriation, among others, for the militia — especially, as was the case with the Socialist members in the former sessions, when he has been denied opportunity to obtain information as to the reasonableness of the appropriations. An Assemblyman is not obliged to support a bill giving extra pay to the National Guard, — or any pay for time when it is not in State service. He is not obliged to support conscription into the militia while it is practicable to recruit it otherwise; nor military training of boys. And he could hardly be required to vote for an appropriation for militia purposes solely which was in fact excessive and extravagant.

Until this provision is interpreted by some better authority (and they do not insist upon an adjudication: they will act upon a competent and unbiased legal opinion, p. 1843) the Socialist Assemblymen cannot do more than do the best they can to interpret it for themselves, and act accordingly. That is what every legislator does with respect to constitutional provisions a good many times a session. Suppose an Assemblyman introduces a bill for liberal enforcement of the Prohibition Amendment, and it passes in the Assembly, and in the Senate, and is signed by the Governor. And then the courts hold that it was unconstitutional. Every legislator and official who had anything to do with its enactment was sworn to uphold the Constitution; they were wrong in their construction of it. Is any one going to say that any of them violated his oath of office?

- (c) *The claim that Socialists are under a duty with respect to fiscal policy inconsistent with compliance with the provision of the Federal Constitution that the validity of the public debt shall not be questioned.*

Before any war debt was contracted, the Socialist platform contained a provision for the repudiation of war debts. When question of its legality was raised later, the National Executive Committee took it upon themselves to eliminate the provision from the platform. Nothing more clearly illustrates the captious temper of the criticism to which the Socialist party is subjected than the contention that *it was not possible* for the Socialist party, holding the convictions which it does with respect to fiscal policy, to keep its *acts* in conformity with law.

Socialists of course did not change their conviction that the borrowing policy was an unjust and improper method of financing the war. Their position accords with that expressed in the memorial presented to Congress by 309 American professors of economics and finance, at the hearings upon the War Revenue bill of 1917.

“ The taxation policy is practicable, because the current income of the people must in any case pay the war expenditures. The choice between bond issues and taxation is merely a choice between whether the government shall take income with a promise to repay those who furnish it or take income without such promise. \* \* \* *The policy of borrowing within the country itself does not shift any part of the nation's burden of war expenditures from the present to the future.* All it does is to make possible a different distribution of the burden among individuals and social classes *to permit repayment to certain persons who have contributed income during the war, by other persons after the war.* If the people can support the war at all, they can do it on a cash basis. \* \* \*

The taxation policy and no other will enable the country to escape the enormous evils of further inflation. *The present high level of prices in Europe and America is primarily due to the war bonds and money issued abroad. If the United States joins in a huge scale in this policy of borrowing prices are bound to become far higher still.*

\* \* \* Apart from the injustice arising from price inflation, the policy of paying for the war by bond issues gives property a preference over life. It deals unjustly as between citizen and citizen.

\* \* \* The citizen who contributes his entire income, beyond what is necessary to subsistence itself, does less than the citizen who contributes himself to the nation. \* \* \* If conscription of men is right and just, conscription of income is more so."

(*Exhibits*, p. 557)

Socialists do not believe that the lives of millions still unborn should be mortgaged to pay interest generations hence to people to whom bonds have descended. That belief they cannot be compelled to change. Their actions, in this respect as in others, they will govern to conform with the Constitution and laws. The provision of the Fourteenth Amendment that the validity of the public debt shall not be questioned, if it has any application, is as much subject to repeal when the people so will as the Eighteenth Amendment.

## IX

**The evidence has been such as to distort the vision.**

The Socialist movement is about 70 to 75 years old in its modern phases. It has produced a literature of hundreds of volumes in all modern languages. The Socialist movement in the United States is almost half a century old. The present party is 20 years old. It has had numerous conventions, national, state and local. It has adopted hundreds of official declarations of all kinds. There have been an average of about 100 papers, daily, weekly, monthly, in English and other languages, supporting its policies (*p.* 1524). Imagine how many statements of all kinds have been made. In campaigns,

almost every member is a speaker, a propagandist. Millions of Socialist speeches have been made in this country within the last couple of decades. Three of these Assemblymen alone, Mr. Waldman, Mr. Claessens, and Mr. Solomon, have made hundreds of speeches in these last three years — almost always with agents of the law, of the Department of Justice, or the Military Intelligence, or the Lusk Committee in the audience — who often took down their speeches stenographically. (pp. 1753, 1957, 1985) Note this: that the speeches of these men which have been read here against them were delivered on *one day*, November 7, 1919, at meetings specially arranged in honor of the Russian revolution. The party puts out millions of pamphlets: (p. 1532) subdivisions, affiliated organizations, locals and branches publish such literature as they please independently of the national organization. (*Branstetter*, pp. 1508, 1521; *Lee*, p. 472.)

It would be utterly impracticable for the national office to undertake any kind of detailed supervision of all this. Will the Republican National Committee take responsibility for everything that may be published in the Republican newspaper? Or for any campaign leaflet that the Italian Republican Club of the Sixth Ward of the City of Boston might see fit to publish? Would it be willing even invariably to back up everything that went out of its own office under its own imprint during a campaign?

The object of Socialist education is to stimulate thought, not to inculcate a dogmatic orthodoxy (*Lee*, p. 484). The literature department of the national office and Socialist institutions independent of the party such as the Rand book store sell literature of interest to Socialists, regardless of whether they agree with it. (*Branstetter*, p. 1508; *Lee*, pp. 519–522.) The litera-

ture department of the national office (which is in business for revenue as well as for propaganda) has for years made it as clear as it can by express statement in its catalogues that it does not endorse literature which published or offered for sale unless it expressly says so. (*pp.* 1499-1500)

Every indiscreet statement that creeps into our literature, our press or our public forums, every foolish, irresponsible statement — and such are bound to occur occasionally — is at once seized upon by our professional opponents, anti-Socialist leagues, the National Civic Federations, etc., and perpetuated; and when a Lusk Committee or an investigation such as this has use for such material, it is available. Suppose a foreign newspaper correspondent is reporting conditions in the United States, with absolute truth except that he selects his material. He omits marriages, births, parties, ordinary politics — everything relating to the ordinary everyday life of the United States; but every crime, every murder, every assault, every lynching, strike, boycott, political scandal, he reports at once. In every case, he is painstakingly truthful. Would the conception created of the United States be correct? The testimony is true in the dry word. It is a lie in its soul and substance. So, in effect, is the testimony in this record.

Is there any one who does not misrepresent himself occasionally? We not only do that, but we think freakishly, or perversely, or mistakenly, and represent ourselves correctly when we are unwise. Victor Berger thought it likely that when the privileged minority feels the change actually about to come, it will grow desperate, as the slave-holders did, and resort to force; that is a matter of prophecy, not of policy. (*pp.* 1457-58.) Once when he had a daily editorial to write, the idea struck him, in catchy phrase, that, in view of that

likelihood of force in the end, workingmen ought to lay in rifles and ammunition so as to "back up their ballots with bullets if necessary." The people in fact have a right to keep and bear arms, well-sanctioned. It was not a criminal statement, nor was there a destructive purpose back of it. It was just unwise, and somewhat shocking — more so to-day when *bullets* means something to us than it was in 1909. The same Victor Berger at about the same time said this:

"We are to have a political party. And we want to *keep out of the party everyone* who is not in harmony with our main principles and *who is opposed to the fundamental idea of the party which means the ballot box.*" (p. 1456)

He is not a firebrand. It is characteristic of him to oppose the idea of immoderation immoderately. He was expressing Victor Berger, not the Socialist Party. But his expressions are here in this record.

A man by the name of Perrin wrote a shocking article in the Call and was at once discharged. (p. 970) But the article is here in this record as a basis of the disqualification of five men who at that time were children.

Supplementing personal and irresponsible expressions of various present and former members of the Socialist party, came a group of outside witnesses: a young woman with a defamatory tale, painstakingly elaborated, of acts that could not have happened, who said that she was accompanied on the occasion in question by another eye-witness to the same alleged circumstances, who sat in the Assembly Chamber during her testimony, but who was not called in corroboration (p. 710); the candidate for Assembly who was beaten for election by one of the five Socialists, whose memory overflowed with things he had said to his opponent in

joint debate which his opponent had not answered: another man who went about heckling speakers, whose most obvious contribution here was a dynamic personality and vivid bias; an anti-Socialist debater. And finally as an "expert" on Socialism, Mr. Collins, the only expert called by counsel for the Committee — an expert, not in Socialism, but in its kitchen gossip. There are plenty of non-Socialist students of Socialism. It is a recognized science. It is taught in the colleges and universities as part of political economy. Professor Ely, Professor Seligman of Columbia, Professor Carver of Harvard, any reputable professor of economics might have been called. Instead we had this professional anti-Socialist with his shallow slanders.

## PART TWO.

### THE JURISDICTION AND POWER OF THE ASSEMBLY AND OF THE JUDICIARY COM- MITTEE IN THIS CASE.

The propositions to be discussed under this head are as follows:

Three powers of a legislative body. are to be distinguished:

- (1) It may expel a member in a proper case.
- (2) It may suspend a member in a proper case.
- (3) It may exclude from membership a person who lacks any constitutional qualification.

This is a proceeding to investigate whether the Socialist Assemblymen are disqualified to be members.

The House sits in a judicial, not in a legislative, capacity when it undertakes to *judge* the qualifications of its members.

A legislative body may not exclude a person as to whose election and returns no question is raised, except for constitutional disqualification.

No question of constitutional disqualification is presented in this case, and the Assembly has no power to exclude the Socialist Assemblymen.

1. A member may be **EXPELLED** at any time during his term of office for the cause and in the manner provided by law.

Section 3 of the Legislative Law provides:

“Each House has the power to expel any of its members after the report of a committee to inquire into the charges against him shall have been made.”

Before the House may expel a member, there must be (1) charges made against the member, (2) an inquiry into the charges by a committee, and (3) a report of the committee made to the House respecting those charges.

"Charges," of course, imply that certain facts must be duly alleged in proper form, so that they may be either controverted or their sufficiency challenged as a matter of law. The provision for an inquiry before a committee means, of course, an impartial committee; and a provision for a report of the committee to the House means that the House shall not have already prejudged the case. The entire proceeding is judicial in character and is designed to secure to the accused a fair trial and decision before an impartial body.

A member can be expelled only for improper conduct *during his term of office.*

This has been held by this House in the case of *Lucas E. Decker*, (p. 107 of *this brief*).

It has been held by the Senate of this State in the case of *Senator James Wood*, (p. 108 of *this brief*).

It is believed to be the invariable rule of American legislative bodies.

It has been held by the United States House of Representatives — Committee Report in the *Berger* case, House Calendar No. 91, Report No. 413, 66th Congress, 1st Session, October 24, 1919.

It has been so held by the United States Senate. *Smoot* case (p. 120 of *this brief*).

Section 35-a of the Public Officers Law provides:

"A person holding any public office shall be removable therefrom *in the manner provided by law* for the utterance of any treasonable word or words, or the doing of any treasonable or seditious act or acts *during his term.*"

This section has no relation to this case, *first*, because it relates only to conduct during the term of office, *which* in the case of these Assemblymen covered about two hours, and *second*, because removal must be "in the manner provided by law." In the case of an Assemblyman, that would be in the manner provided by section 3 of the Legislative Law above quoted. This is not a proceeding to expel under that section (1) because the resolution authorizing this proceeding does not so provide, (2) because there has been no definite limitation of charges, and (3) because there is no suggestion of misconduct during the members' term of office.

**2. After a member-elect is sworn in and assumes office he can be punished by the legislative body of which he is a member for violation of rules or disorderly behavior tending to interrupt the business of the House, and this punishment may include SUSPENSION.**

Section 4 of the Legislative Law of this State provides, among other things, that each House may punish its members for contempt of its authority and for "disorderly conduct of its members, officers or others in the immediate view and presence of the House, tending to interrupt its proceedings." This power to punish may extend even to imprisonment and involves the power to suspend. *The only power which the legislative body has to suspend a member is that which is derived from its power to punish because of violation of the rules or other conduct tending to interrupt the proceedings of the House.*

There never was a greater fallacy than is involved in the statement so often made by counsel for the Committee that the power to expel includes the power

to suspend. They are entirely separate powers, exercised for different purposes and in a different manner, and have their origin in entirely different provisions of the Constitution or the statutes.

That the power to expel does not include the power to suspend has been directly held by our Court of Appeals in *Gregory v. Mayor et al. of N. Y.*, 113 N. Y. 416. In this case Mr. Justice Peckham said that there was nothing in the power to expel which would necessarily

“include a power to suspend, for, in some instances, \* \* \* the power to suspend would seem to be very different in its nature from the power to remove, and not necessarily a minor power included in the power of expulsion.”

The facts in this case illustrate Judge Peckham's point that a suspension may be not a lesser but a greater punishment than expulsion. As a result of the action of the Assembly in denying seats to the Socialist minority, they will be deprived *during practically the entire session* of the right to discharge their duties as members of the Assembly. If the Committee should report in their favor as soon as it receives this case and that report should be promptly confirmed by the Assembly, the session will none the less be practically over before these men can be restored to their seats. For the Assembly to assert and exercise such an arbitrary power means, of course, the end of representative government in this State. A minority party of five is driven out of the Assembly to-day. A minority party of fifty or seventy-four may be driven out to-morrow. All of the elaborate provisions of law above quoted, providing for charges, inquiry before an impartial committee, an opportunity to be heard in

defense, and a final decision before an unprejudiced Assembly, are useless if, by the short cut adopted in this case, an objectionable minority can be forced out of the Assembly at any time without any sort of a hearing or opportunity for defense.

**3. The House may exclude from membership a person who lacks any constitutional QUALIFICATION.**

Section 10 of Article III of the Constitution of this State has this provision:

“A majority of each House shall constitute a quorum to do business. Each House shall determine the rules of its own proceedings and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers.”

**4. This is a proceeding to investigate the qualifications of the Socialist Assemblymen.**

The resolution authorizing this proceeding distinctly so provides. It is referred to as “the investigation of the qualifications and eligibility of said persons to their respective seats.”

**5. In judging the elections, returns or qualifications of members, the House sits in a judicial, not in a legislative capacity.**

It will be seen from the language of the Constitution that each House *determines* its rules and *judgets* of the elections, returns and *qualifications* of its members. In other words, it *makes* its rules, but it does not make or prescribe the qualifications of its members. It only *judgets* whether the qualifications exist *which the law prescribes*. It has precisely the same power to *judge* whether its members have the *qualifica-*

tions which the law prescribes as it has to judge whether they have been duly elected and whether the returns of the election conform to law.

“As each house acts on these occasions in a judicial character, its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law, and strictly adhered to.”

1 *Kent's Commentaries*, 235.

“The power thus given to the houses of the legislature is a judicial power and each house acts in a judicial capacity when it exerts it.”

*People ex rel., Hatzel v. Hall*, 80 N. Y. 117.

A House sitting in such cases as a court, cannot usurp the functions of a Legislature. Judicial tribunals do not, and must not, make the law which they apply. The creation or imposition of a rule or ground of qualification or disqualification is legislation — nothing else. One House, acting alone, cannot legislate. The power conferred by the Constitution is not a license to the Assembly to evolve a law for itself out of the depth of its own consciousness or its own notions of expediency or propriety, and not submit it to the Senate, and not submit it to the Governor, and administer it all alone, immune from review in the courts. *Within* the jurisdiction conferred by the Constitution, judicially applying known principles of law, the adjudication of the Assembly is final. But should it exceed its constitutional jurisdiction and indulge in

legislative anomaly in lieu of a judgment, an entirely different and unprecedented situation would arise.

6. The House cannot exclude a person as to whose election and returns no question is raised, except for lack of some constitutional qualification.

The office of Assemblyman is a constitutional office, and even the Legislature, with the approval of the Governor, cannot change the Constitution. There are certain inherent qualifications which an Assemblyman, like every other constitutional officer, must possess: (1) He must be of full age; (2) He must be a citizen of the United States; (3) He must be a resident of the State. These three qualifications would exist regardless of statute from the nature of the office. They are, however, recited in section 3 of the Public Officers Law. The constitutional requirements are that he must not, at the time of his election, or within one hundred days previous thereto, have been a member of Congress or a civil or military officer under the United States or an officer under any city government. (See section 8, article III of the Constitution of the State of New York.) Further, he must not have obtained his election by corrupt means. (Article XIII of the Constitution of the State of New York.) And to clinch the matter and put beyond controversy all questions of additional qualifications, article XIII of the Constitution, which prescribes the oath of office, further declares:

"And no other oath, declaration or test shall be required as a *qualification* for any office of public trust."

The Standard Dictionary gives these definitions of "test":

"A test is an examination made for the purpose of proving or disproving some matter of doubt. A critical trial."

"That which may be used to determine a question relating to the existence, the qualities or the genuineness of a thing, a criterion, a standard of judgment."

From every point of view a test is a proceeding such as this present proceeding to discover outside political, ethical, or patriotic qualifications or absence of qualifications. Such a test, other than the one contained in the oath to support the Constitution, and the further oath to the effect that the member of the Assembly presenting himself had not been guilty of corrupt practices in connection with his election, is absolutely and in express terms prohibited by the Constitution.

Thus the Assembly is precluded not only from imposing a novel extra-legal qualification by itself; even a statute to that effect, concurred in by the Senate and signed by the Governor, would be inoperative. The Court of Appeals in *Rathbone v. Wirth*, 150 N. Y. 459, held unconstitutional an act reorganizing the police department of Albany provided that "no person is eligible to the office of police commissioner unless at the time of his election he is a member of the political party or organization having the highest or next highest representation in the common council." The court construed together the provision against supplemental tests and the provisions of article 1, section 1, of the Constitution that: "no member of this State shall be disfranchised or deprived of any of the rights or privileges se-

cured to any citizen thereof unless by the law of the land or the judgment of his peers." The court said:

"When the two sections of the Constitution above referred to are read together and are all read in the light of the historical events and notorious abuses of power which led to their insertion in the Constitution, it cannot, I think, be doubted that they are broad enough in their terms and *that they were in fact intended to prevent the enactment of laws proscribing any class of citizens as ineligible to hold office by reason of political opinions or party affiliations.* The section of the Constitution last cited comprehends more than a mere prohibition of test oaths, such as are familiar to the student of English history. It deprives the legislature not only of all power to exact any other oath, but also any other declaration or test as a qualification for office."

### 7. The precedents.

The precedents of the Legislature of this State and of all other legislative bodies in the United States, including both houses of Congress, adhere to the principles we have stated. This proceeding is absolutely unprecedented, absolutely unsanctioned.

There have been a great many cases in both the Assembly and the Senate under the constitutional provision making each House the judge of the elections, returns and qualifications of its members.

Each House has passed judgment many times upon questions of fact — the number of votes cast for "A" and the number of votes cast for "B" at a particular election; what votes were fraudulent, what votes were corrupt. Each House has also passed on questions of

law — whether a school employee, for example, or a ward supervisor is “an officer in city government,” and so ineligible for election under section 8 of article 3 of the Constitution; whether the citizenship of a member holding a naturalization certificate, regular on its face, could be collaterally questioned in the Legislature. In all the cases, there is not one single instance in which the House has assumed jurisdiction to create, determine, pass upon or adjudge an extra-constitutional qualification or disqualification.

This is not because the question has not arisen. It has arisen. It was discussed in 1906 in the case of **ROSENSTEIN AGAINST ESKMANN** (Assembly Journal, 129th Session, page 3246), where the question was of the possibility of disqualifying for fraudulent practices in connection with a nomination. The Committee reported that it was not warranted

“in establishing a precedent which might give rise to all manner of contest based upon notions of the conduct of members sitting in your honorable body which likewise might give rise to a diversity of opinion as to what should constitute conduct not in keeping with the dignity of the office and different standards of such conduct by various committees appointed to pass upon the eligibility and qualifications of members of your honorable body, and the result would be harmful and baneful.

“Your committee, therefore, finds that the proof in this record does not go to the elections, returns and qualifications of the members of the Legislature as provided in the Constitution.”

Still more lately, in 1917, an attempt was made to oust **ASSEMBLYMAN WHITEHORN** upon the ground that he was not a resident of the Assembly dis-

trict which he had been elected to represent. (Assembly Journal, 140th Session, page 1576.) The Committee was strongly of the opinion that for a district to be represented by a resident of another district was highly improper, and that such a non-resident Assemblyman *ought* to be disqualified. But they held further that they *could not* disqualify him, being bound by former adjudications of the Assembly on the question. The Assembly adopted the report, and the resolution that Whitehorn was entitled to hold his seat was unanimously passed.

The case of LUCAS E. DECKER, a member of the Assembly from the fourth district of the county of Queens in the year 1918 comes even closer to the present one — closer in point of analogy and closer in point of time. Decker was charged with having failed to register for the selective draft although he was of draft age; with having falsely represented that he had been examined and discharged on account of bad health while he had not, as a matter of fact, presented himself for examination at all; and with having in November, 1917, claimed exemption as a member of the Assembly, although his term of office did not begin before January first of the next year. The Committee found the facts to be substantially as charged. The Committee reported that it became Decker's duty to register on July 24, 1917; that he did not do so until November 23, 1917; that he was married November 9, 1917; that he then claimed exemption as a State officer and a married man — that he was in no sense a State officer until after January 1, 1918; that he was a lawyer and charged with knowledge of the law far beyond that of a layman in like circumstances; and that the fact that for at least four months he disregarded the law while advising others to obey it, and assisted in the work of

getting other young men to go to the front, would justify any committee of citizens in taking the position which was taken in this matter by the complainants. The report continued:

"But these circumstances were matters of public record during all the period of time said Decker was running for the office of member of the Assembly, and neither denied or affirmed by him as far as any evidence produced before us showed, with the exception of the fact that he stated he had been discharged on the ground of defective eyesight; and your committee could not recommend the dismissal of said Decker from the office of Member of Assembly on the ground that he secured his selection by misrepresentation in any way."

And then further:

"Since his election, and since he has been in the discharge of his duties as an Assemblyman, there is no evidence that he has committed any act that disqualified him in the judgment of your committee from so acting; that the facts are insufficient for us to hold and recommend that he should be deprived of his office at this time. Your sub-committee holds that in order to remove a member of Assembly from office, under the constitution, some question involving the election or returns is necessary before the Assembly has jurisdiction in the premises, or further, that the person so elected must be entirely disqualified under the constitution, or by his conduct in the house must disqualify himself. These regulations are specifically set forth in the constitution itself, and there

is no evidence before us that any of them are lacking, as far as the respondent in this proceeding is concerned. We, therefore, respectively recommend to the Judiciary Committee that a report be made dismissing the complaint and the said report be by the said committee submitted to the Assembly for further action."

*Assembly Journal*, 1918, Vol. I, p. 105.

That is what the committee reported. In essence it is, that no matter how morally objectionable the member's conduct may be in the eyes of his fellow members, no matter if it is tainted with a strong taint of positive criminality, so long as he possesses the constitutional qualifications of age, citizenship and residence, and is not the holder of an office which under the Constitution renders him ineligible, so long as he has been duly elected, he must be permitted to sit and serve. He is not disqualified, and only for misbehavior as a member on the floor of the House can he be expelled.

That committee report is signed by Louis M. Martin, Chairman. This case was just two years ago. The fundamental point is identical with the point involved in the present case. The committee report was adopted and Decker declared entitled to his seat by unanimous vote.

In the case of SENATOR JAMES WOOD, the Committee found that Wood had received loans from Tweed and Jay Gould "which they would not have advanced to him had they not believed that they could thereby respectively derive advantage through Mr. Wood's action or position as a legislator, of improper character." The Senate adopted this resolution:

**"Resolved, That the acts of which he now stands charged are not offenses against the privileges**

**of this body but of the former Senate, and that the further consideration of a resolution of expulsion be indefinitely postponed."**

*Senate Journal, 1872, p. 639.*

The precedents of Congress recognize and establish the same principles.

We shall discuss first the group of cases arising from the Civil War, then the recent Berger case, the the Roberts case, of which so much has been made in this proceeding, and which is in a class by itself, and then the case of Senator Reed Smoot.

The Civil War cases have been misrepresented in this proceeding. We shall first discuss that of SENATOR BENJAMIN STARK OF OREGON.\* In the first brief filed by counsel for the Committee, it was stated that (*p. 82*) Senator Stark was prevented from taking his seat. *The fact was exactly the reverse.* An energetic and determined effort was made to unseat him, and Senators, Howe, Sumner and Trumbull urged the Senate "to make a precedent, in order to deal with an unprecedented case." Senator Stark's actual disloyalty in word and spirit was established beyond the shadow of a doubt. It was proved that in the period of excited discussion just before the outbreak of the Civil War (February, 1860), Stark had said:

"If there is to be any war between the North and the South, all my property is for sale at 50 cents on the dollar, and I will go and help the South fight. The Palmetto flag is my flag; the Southern Confederacy is the only legal government in existence; that the United States Government is broken up; that Jefferson Davis is fighting a good cause, and it will be impossible to defeat him;"

It was proved that later, on another occasion, Stark said the following:

"The United States forces may fight the South from one end of their Government to the other, but it will amount to nothing; they will close up behind them, and they cannot be conquered. The South is fighting in a good cause, for government and order, and they can not be conquered."

It was proved further that while the war was on in November, 1861, Stark said "that there was no United States Government;" and that when the President called for volunteers he had said:

"that the United States Government could not support an army of 30,000 in the field for six months; that the people of the loyal States would not back up the administration in trying to put down this rebellion."

In a letter written by Senator Stark while the war was on, he said:

"Civil war cannot avert disunion; Subjugation cannot prolong the Union: To subjugate the South, were that possible, would be the establishment of a military despotism."

Sixteen senators voted to unseat him; twenty-one senators voted against unseating him, and he was not unseated. In fact, he held his seat throughout the investigation and voted and spoke on measures which arose for consideration pending it.\*

Again in the case of SENATOR JESSE D. BRIGHT \* of Indiana, who was expelled from the

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\* *Compilation of Senate Election Cases, page 284 following.*

Senate in 1862, the facts were incorrectly presented in the first brief filed by counsel for the Committee. (p. 83.) In the Bright case, as in the Stark case and many others, there was loose and excited talk in the Senate as to the possession of plenary and lawless power to exclude undesirables, but this talk does not represent the basis of the Senate's decision. Senator Bright was expelled for a *clear act of treason*. In 1861, he recommended to a person whom he addressed as "His Excellency, Jefferson Davis, President of the Confederation of States," at what he referred to as "your Capitol",—while Jefferson Davis was in arms against the United States, an emissary to dispose of—"a great improvement in firearms." \*

That was treason, and that is what Senator Bright was expelled for. That is what it was called by Senator Trumbull in moving for Bright's expulsion.

"What was the condition of the honorable Senator from Indiana? He was a member of this government, sworn to maintain this government against all attempts to overthrow it either by foreign or domestic enemies. That was his duty. To aid, to countenance Jefferson Davis in his purpose to overthrow this government was what? *Treason, of course.*"

*Cong. Globe, Vol. I, 2nd Sess., 37th Cong., p. 395.*

The evidence in the Bright case did not relate solely to the act of treason, for which he was unseated. There was also introduced a letter written by Senator Bright in which he said:

"No man regrets more than I the present condition of public affairs or is more anxious to see

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\* *Compilation of Senate Election Cases*, p. 1200; *Hind's Precedents*, Vol. II, p. 824.

peace, unity and fraternity restored. I do not think the policy of that party, (The Republican) is calculated to produce such results; so far from it, the inevitable tendency of its efforts in my opinion is to render the disruption permanent and incurable, and *hence I have opposed and, so long as my present convictions last, shall continue to oppose the entire coercive policy of the government.*"

The statement by Senator Sumner that this letter did not constitute treason was doubtless the basis of the mistake of counsel for the committee as to what was decided. Senator Sumner said:

"I do not dwell on other topics of this second letter, because, though exhibiting bad temper and bad principles, they do not necessarily conduce to treason. The writer is welcome to express his 'utter contempt for abolitionism' and also to declare his early and constant opposition to what he calls 'the entire coercive policy of the Government.' Such declarations may render him an unsafe counselor, but they do not stamp him as a traitor. And it belongs to us, while purging this body of disloyalty in all its forms, to maintain at all hazards that freedom of speech is the herald and safeguard of all other freedom."

*Op. cit.* p. 415.

One more of the Civil War cases should be mentioned,—that of SENATOR POWELL\* of Kentucky.

After the Confederacy had been formed, and a state

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\* *Compilation of Senate Election Cases, 1205; Hind's Precedents, 827, Vol. II; Comp. Globe, 2nd Session, 37th Congress, 1208-1234.*

of war existed between it and the United States, Senator Powell presided at a convention in Kentucky, and supported resolutions providing:

“ That the war being now waged by the Federal Administration against the Southern States is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world and endanger every safeguard of constitutional liberty \* \* \*

“ That the recall of the invading armies and the recognition of the separate independence of the Confederate States is the true policy to restore peace and preserve the relations of fraternal love and amity between the states \* \* \*

“ That we heartily approve the refusal of Gov. Magoffin to furnish Kentucky troops to subjugate the South, and we cordially indorse his recent proclamation defining the position of Kentucky, in accordance with the sentiment of her people, and forbidding the invasion of Kentucky by Federal or Confederate troops.

“ That, although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet, if either of them invade her soil against her will, she ought to resent and repel it by necessary force.”

Senator Powell had also in the Senate consistently opposed the war and all war measures. Speaking on the War Revenue Bill, August 2, 1861, he said (*Cong. Globe, 2nd Session, 37th Cong., page 1212*):

“ I have steadily voted against all appropriations to carry on this war. I voted against the

loan bill and I have steadily voted against all war supplies. I cast those votes because I was opposed to the war; because I believe the war was calculated to eternally sever the States of this Union, and that it would result in no good, but manifest evil to every interest of the entire country. Having cast the votes I have, I cannot conscientiously vote for this bill. I knew that the heavy amount of war supplies that were being voted by Congress would necessarily result in the most onerous taxation of the people. Those gentlemen who voted for those war measures, I suppose, can conscientiously vote for this bill; for the votes which they have given lead directly to it. Those who vote for war measures and war loans can properly vote for the taxes to raise the money to pay the debt. I have opposed the war, having voted against the loan, having voted against the Army supplies, deem it my duty to vote against the bill, which I shall do."

Only eleven Senators voted for Senator Powell's expulsion. Twenty-eight Senators voted to sustain his right to his seat.

The recent exclusion from Congress of VICTOR L. BERGER was based by the Committee upon the *Constitutional provision*, adopted after the Civil War to make it possible to bar from Congress men who had taken an active part in the rebellion against the United States, expressly directing the exclusion of any person who, having previously taken an oath as a member of Congress or as an officer of the United States, or to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort, to the enemies thereof. (*Section 3 of the 14th Amendment.*)

We do not cite the exclusion of Victor L. Berger from the House of Representatives as an act justifiable by law. On the contrary, we think that it established a very dangerous precedent and that the consequences of that act done in the heat of partisan passion only now begin to mature in this proceeding before this Assembly. But for all that, the Berger exclusion had a color of law which this proceeding cannot assume to wear. Victor Berger stood convicted — we do not say rightly — and an appeal is pending, of violation of the Espionage Law. He presented himself under a sentence of 20 years' imprisonment. But if Berger had not been a member of Congress before, there would have been no basis for his exclusion. The Committee purported to find as a fact that having taken the oath before, he had thereafter given aid and comfort to the Imperial German Government by his writings in the *Milwaukee Leader*, and that he was therefore disqualified under the express terms of the Fourteenth Amendment.

Counsel for the Committee have relied upon the case of Representative BRIGHAM H. ROBERTS \* of Utah. The Roberts case is strikingly different from the present one. The State of Utah had just been admitted to statehood. It had been admitted upon a solemn compact, expressed in its Constitution, that its inhabitants would give up the practice of polygamy. Congress had moreover passed the Edmonds Law, which contained this express provision:

“That any person found guilty of polygamy was thereby disqualified from holding any office under the Government of the United States, including the office of Representative.”

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\* *Hinds' Precedents*, Vol. I, p. 518.

Roberts was an admitted polygamist. He not only admitted it,— he refused to promise to discontinue the practice. He was unseated on the ground that he had violated the very organic compact between the State of Utah, which he assumed to represent, and the United States in Congress of which he sought a seat. He was disqualified on the ground that the law — the Edmonds Law — which made polygamy illegal, carried its own provision to the effect that any polygamist shall be disqualified from holding such office.

The decision in the Roberts case can be sustained only upon this practical ground — that if Roberts had been seated, he would at once, as even Mr. Littlefield in the minority advocated, have been expelled for the continuing crime of polygamy, which he flaunted in the face of a nation which had admitted his State into the Union on the faith of its promise to discontinue that practice.

SENATOR REED SMOOT \* also came from Utah. The questions in the Smoot case were close to those in the case at issue. He was not personally a polygamist. The investigating committee (which sat from time to time for upwards of two years, during all of which period Senator Smoot was active in the Senate), was sharply and almost evenly divided in its recommendations. There was no substantial difference of opinion between majority and minority as to the facts. The Committee stood 7 to 5 for putting Senator Smoot; but one of the seven, Senator Bailey, agreed with the minority that the case presented no question of *qualifications*. The facts were that Smoot was a member of a self-perpetuating hierarchy known as the First Presidency and Twelve Apostles of the Church of Jesus Christ of the

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\* *Senate Election Cases*, pp. 928 seq.; *Hinds' Precedents*, Vol. I, pp. 561 seq.

Latter-Day Saints; that that Church, acting through that hierarchy, claimed and exercised the right to dominate and control the thoughts and actions of its members in all the affairs of life, both spiritual and mental; that a committee of the Church had been supervising the legislation of the State of Utah; that the Church had controlled the government of the State of Utah by causing its membership to divide on political lines, "so that about one-half should belong to one of the great political parties of the nation, and the other half to the other party, leaving a considerable number unassigned to either party, so that their votes could be cast for one party or the other, as might be necessary to further the interests of the Church;" that Mr. Smoot, before offering himself as a candidate for the Senate, had obtained from the hierarchy a "consent" which under the rules of the Church made it impossible for anyone else to become an aspirant for the same position with any hope of success.

*Hind's Precedent's, p. 572, seq.*

The minority of the committee did not challenge these facts. They did not even challenge the conclusion of the majority.

The Minority held on these facts that:

**"No ground has been established on which to predicate a finding or belief that Mr. Smoot ever took any obligation involving hostility to the United States or requiring him to regard his allegiance to the Mormon Church as paramount to his allegiance and duty to the United States."**

and that

"So far as mere belief and membership in the Mormon Church is concerned, he is fully within his rights and privileges under the guarantee of religious freedom given by the Constitution of the United States, for there is no statutory provision, and could not be, prohibiting either such belief or such membership."

*Hind's Precedents, Vol. I, 584.*

The question whether the Senate could prescribe an extra-constitutional qualification was elaborately debated both in the hearings and on the floor of the Senate. There was also further discussion on the nature and grounds of expulsion.

The majority of the committee, which it must constantly be borne in mind *did not prevail on the floor of the Senate*, conceded through its counsel, ex-Congressman Taylor, who, as a member of the House had conducted the case there against Roberts, that:

"No Senator has ever been expelled, no member of the House has ever been expelled, except for some act done by him while Senator or Representative, with relation to his function as Senator or Representative; I think that no serious effort was ever made to expel for any other reason than that." (*Hind's Precedents, Vol. I, 563*)

Senator Burrows wrote in the Majority Report, **which did not prevail**, some language which has been quoted here as authority for the purpose of unseating the five Assemblymen.

"It is now well established by the decisions of the Senate in a number of cases that in order

to be a fit representative of a sovereign state of the Union in the Senate of the United States, one must be in all respects obedient to the Constitution and laws of the United States and of the state from which he comes, and must also be desirous of the welfare of his country — and in hearty accord and sympathy with its government and institutions. If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation, or its government, he is regarded as being unfit to perform the important and confidential duties of a Senator, and may be deprived of a seat in the Senate, although he may have done no act of which a court of justice could take cognizance.”

*This conception of qualification as resting in the discretion of the Senate was not endorsed by the Senate.*

When the Smoot case came on for final decision on the floor of the Senate, Mr. Smoot was neither unseated nor expelled. The vote against his exclusion was 42 to 28. The vote against expulsion was 43 to 27.

Senator Knox as leader of the group of Senators which supported Senator Smoot, expressed as follows, in the final debate, the position which prevailed:

“I do not think the Senate will seriously consider that any question is involved except one of expulsion requiring a two-thirds vote. **There is no question as to Senator Smoot possessing the qualifications prescribed by the Constitution, and therefore we cannot deprive him of his seat by a majority vote. He was at the time of his election over thirty years of age and had been nine years a citizen of**

the United States, and when elected was an inhabitant of Utah. These are the only qualifications named in the Constitution, and it is not in our power to say to the States, 'These are not enough; we require other qualifications;' or to say that we cannot trust the judgment of the States in the selection of the Senators; and we therefore insist upon the right to disapprove of them for any reason. . . .

"By another provision, namely — that relating to expulsion — the Constitution enables the Senate to protect itself against improper characters by expelling them by a two-thirds vote if they are guilty of crime, offensive immorality, disloyalty or gross impropriety during their time of service.

"I specify these reasons because I cannot imagine the Senate expelling a member for a cause not falling within one of them. . . .

"The simple constitutional requirements of qualifications do not in any way involve the moral quality of the man; they relate to facts outside the realm of ethical consideration and are requirements of facts easily established." (*Hinds' Precedents, Vol. I, 587. 59th Congress, 2nd Session, p. 2934*)

## CONCLUSION.

This is a proceeding for which there is neither precedent nor excuse.

Mark Twain in 1875 wrote this about the whipping up of a war psychology:

“A few fair men on the other side will argue and reason against the war with speech and pen, and at first will have a hearing and be applauded; but it will not last long; those others will shout them, and presently the audiences will thin out and lose popularity. Before long you will see this curious thing. The speakers stoned from the platform, and free speech strangled by hordes of furious men who in their secret hearts are still one with those stoned speakers — as earlier — but dare not to say so. And now the whole Nation — pulpit and all — will take up the war cry, and shout itself hoarse, and mob any honest man who ventures to open his mouth: and presently such mouths will cease to open.”

To Socialists, that seems a close description of what has happened these last four or five years. There is fortunately a limit to the toleration of intolerance. The response to the action of the Speaker of the Assembly toward the Socialist members showed that it has been reached.

To unseat these Socialists will not prevent return to the normal condition of an actual free and democratic republic, enduring political differences and trusting the

common sense of the mass of its people. But it will leave an ugly stain on our democracy.

March 15, 1920.

Respectfully submitted,

MORRIS HILLQUIT,  
SEYMOUR STEDMAN,  
GILBERT E. ROE,  
S. JOHN BLOCK,  
WILLIAM KARLIN,  
WALTER NELLES.

*Counsel for the Socialist Assemblymen.*

## BRIEF FOR THE JUDICIARY COMMITTEE

Before the Judiciary Committee of the Assembly of the  
State of New York.

IN THE MATTER  
of the  
Investigation by the Assembly of the  
State of New York, as to the Quali-  
fications of LOUIS WALDMAN,  
AUGUST CLAESSENS, SAMUEL A.  
DEWITT, SAMUEL ORR and  
CHARLES SOLOMON to Seats in the  
Assembly.

### PART I

**The origin of this inquiry, its parliamentary justification and underlying reasons.**

On January 7, 1920, immediately after the organization of the Assembly for the Session of 1920, a resolution was adopted by a vote of 140 "Ayes" to 6 "Noes," which resolution referred to this Committee the investigation of the qualifications and eligibility of the five persons above named to seats in the Assembly and empowered the Committee, in conducting such investigation, to adopt such rules of procedure as in its judgment it deemed proper, to subpoena and examine witnesses and documentary evidence, and to report to the Assembly "its determinations as to the qualifications and eligibility of the said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon, and each of them respectively, to a seat in this Assembly."

[2477]

The resolution further provided that, pending the determination of their qualifications and eligibility to their respective seats, the aforesaid persons be denied seats in the Assembly.

### THE LAW

(1) *The right of the Assembly to exclude and expel members is fundamental, inherent and exclusive.*

The Constitution and laws of this State are merely declaratory of this right.

“It is conceded by the text writers that each of those Houses has the sole power to judge thereof exclusive of every other tribunal: (1 *Kent*, 235; 1 *Story on Constitution*, Sec. 833; *Cushing Law and Pr. Leg. Ass.*, Sec. 1050; *Cooley Const. Lim.*, 133). It is doubtful, however, whether they reached that conclusion alone from the form and inherent force of the words used in the constitution. *Kent (supra)* says: ‘There is no other body known to the constitution, to which such a power might be safely trusted.’ *Story (supra)* says: ‘If lodged in any other than the legislative body itself its independence, its purity and even its existence of action may be destroyed or put into imminent danger. \* \* \* Accordingly the power has always been lodged in the legislative body by the uniform practice of England and America.’ *Kent (ubi supra)* says that the same power is vested in the British House of Commons. There it ‘has its original from this one maxim “that whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House to which it relates and

not elsewhere:"' (1 *Blackstone's Com.* 163, *citing* 4 *Inst.* 15.) The power seems to have been established in the House of Commons after a conflict. It was claimed and exercised at one time by the King and Council, at another by the House of Lords, and again by the Chancellor: (See *Cox's Inst. of Eng. Govt.* 117; *May's Law of Parliament*, 54; *Hallam's Const. Hist. Eng.*, Vol. I, 273.) In 1624 the Commons declared by resolution that it belonged exclusively to the House itself, as 'its ancient natural and undoubted privilege;' and since then the claim of the House seems to have been acquiesced in on all hands: (*Cush. Law & Pr.* 54.) The same author says that the power is so essential to the free election and independent existence of a legislative Assembly that it may be regarded as a necessary incident to every body of that description *which emanates directly from the people*; and that the constitutional provisions are out of abundant caution: (*Cush. Law & Pr.* 54; and see *Hammond's Pol. Hist. C.* 3.) So that it seems that force is added to the words of the Constitution by a consideration of the occasions and instruments in which they are found, and of the character of the political bodies to which they are applied; and a greater weight is given to them than they will bear in the legislative act, passed in view of constitutional provisions creating courts of justice and clothing them with general jurisdiction." (*People ex rel. Hatzel et al. v. Hall*, 80 N. Y. 117, at pp. 121-122 of opinion of the Court per Folger, J.)

The sole and exclusive power to pass upon the qualifications of its members is, therefore, inherent in the

Assembly and would apparently exist even in the absence of any constitutional provision.

The power to expel is likewise an inherent incidental power of the Assembly and requires no constitutional or legislative expression or declaration for its existence. It was so held in this State in *People ex rel. McDonald v. Keeler*; 90 N. Y. 463, p. 481.

This power exists for the protection of the legislative body and does not need to be conferred expressly by the Constitution or by statute.

Moreover, the legislative body is the sole judge of the exigency which may require the exercise of the power of expulsion.

The leading case in the United States upon this subject is *Hiss v. Bartlett*, 3 Gray (Mass.) 408. Hiss had been expelled from the Legislature of Massachusetts and following his expulsion was arrested on civil process by a creditor. He sued out a writ of *habeas corpus* upon the ground of legislative privilege, alleging that the Legislature had no power to expel him and the Supreme Judicial Court of Massachusetts, in an opinion written by Chief Justice Lemuel Shaw, one of the greatest jurists that this country has known, held that the Legislature possessed the power of expulsion, was the sole judge of the exigency which justified its exercise and that having expelled Hiss there was no authority in any court to question the validity of such act.

“The power of expulsion is a necessary and incidental power, to enable the House to perform its high functions, and is necessary to the safety of the State. It is a power of protection. A member may be physically, mentally or morally, wholly unfit; he may be afflicted with a contagious disease, or insane, or noisy, violent and disorderly,

or in the habit of using profane, obscene and abusive language. It is necessary to put extreme cases, to test a principle.

*"If the power exists, the House must necessarily be the sole judge of the exigency which may justify and require its exercise."* (Italics ours.)

"I am strongly inclined to believe, as above intimated, that the power to commit and to expel its members was not given to the House and Senate respectively, because it was regarded as inherent, incidental and necessary, and must exist in every aggregate and deliberative body, in order to the exercise of its functions, and because without it such body would be powerless to accomplish the purposes of its Constitution; and therefore any attempt to express or define it would impair, rather than strengthen it. This being so, the practice and usage of other legislative bodies, exercising the same functions, under similar exigencies, and the reasons and grounds, existing in the nature of things, upon which their rules and practice have been founded, may serve as an example and as some guide to the adoption of good rules, when the exigencies arise under our Constitution.

"But independently of parliamentary custom and usages, our legislative houses have the power to protect themselves, by the punishment and expulsion of a member.

"It is urged that this court will inquire whether the petitioner has been tried. But if the House have the jurisdiction for any cause to expel, and a court of justice finds that they have in fact expelled, I think we are bound to say, that when

he was arrested, he was not a member of the House of Representatives, and his privilege from arrest was at an end" (3 Gray, at pp. 473, 475).

In *French v. The Senate of the State of California*, 146 Cal. 604, the power is declared to be inherent in legislative bodies. The California Constitution provided that the Senate might with the concurrence of two-thirds of all the members elected expel a member, and after citing *Hiss v. Bartlett*, *supra*, with approval, the court says:

"If this provision were omitted and there were no other Constitutional Limitation of power, the power would nevertheless exist and could be exercised by a majority. *The only effect of the provision is to make the concurrence of two-thirds of the members elected necessary to its exercise. In all other respects it is absolute.*" (Italics ours.)

The same conclusion was reached in *State v. Gilmore*, 20 Kan. 551, where the opinion was written by Judge David J. Brewer, later a Justice of the United States Supreme Court.

A similar unanimity of opinion has prevailed among the text writers. In *Cooley's Constitutional Limitations*, page 190, it is said:

"Each House has also the power to punish members for disorderly behavior, and for contempts of its authority, as well as to expel a member for any cause which seems to the body to render it unfit that he continue to occupy one of its seats. This power is generally enumerated in the Constitution among those which the two Houses may exercise, but it need not be specified in that instrument, since it would exist whether expressly conferred or not \* \* \* (Citing *Hiss v. Bartlett*, *supra*.)"

To the same effect is *Stimson's Federal and State Constitutions of the United States*, section 276.

In *Cushing's Law and Practice of Legislative Assemblies*, it is said on page 250 :

" 625. The power to expel a member is naturally and even necessarily incidental to all aggregate, and especially all legislative bodies ; which, without such power, could not exist honorably, and fulfill the object of their creation. In England, this power is sanctioned by continued usage, which, in part, constitutes the law of parliament. *It is in its very nature discretionary, that is, it is impossible to specify beforehand all the causes, for which a member ought to be expelled ;\** and, therefore, in the exercise of this power, in each particular case, a legislative body should be governed by the strictest justice ; for if the violence of party should be let loose upon an obnoxious member, and a representative of the people discharged of the trust conferred upon him by his constituents, without good cause, a power of control would thus be assumed by the representative body over the constituency, wholly inconsistent with the freedom of election."

And in the same work on page 269 the following is found under the heading "*Incidental Powers Relating to Members.*"

" 687. In the States of Massachusetts, New Hampshire, *New York*,\* and North Carolina, there being no constitutional provision on this subject, the power to expel exists, as a necessary incident to every deliberative body, and may be exercised at the discretion of the Assembly, and in the usual way of proceeding."

\*Italics ours.

In Von Holdt's *Constitutional History of the United States*, edited by Mason, page 102, it is said:

"Both Houses of Congress must have been granted every power indeed to guard themselves and their members against any impropriety on the part of a member and to preserve their dignity and reputation among the people. *It is wholly for them to say what conduct they are to regard as dishonorable enough to require expulsion.\** An appeal from their decision lies only to the Court of Public Opinion, a court which brings in its verdict at elections."

The inherent sole and exclusive jurisdiction of the Assembly to exclude or expel on an inquiry into the eligibility and qualifications of its members has been declared in the Constitution and statutory law of this State.

"Each House shall \* \* \* be the judge of the elections, returns and qualifications of its own members \* \* \*"

*Const. of N. Y., Art III, Sec. 10.*

The statutes of the State have from the time of the first revision recognized the right of the Legislature to expel members, but the causes or reasons for such expulsion have never been defined or restricted, either by the Constitution or by statute; and it is clear that one Legislature could not restrict the power of a succeeding Legislature for its own protection which is inherent in sovereign parliamentary bodies.

In the original revision (1 R. S., chap. 7, title 2, subd. 12) it was provided that "each house has the power to expel any of its members and to punish its

\*Italics ours.

members and officers for disorderly behavior by imprisonment, but no member shall be expelled until a report of a committee appointed to inquire into the facts alleged as grounds of his expulsion shall have been made."

The provision of the present *Legislative Law* on the subject reads as follows:

"Sec. 3. Each house has the power to expel any of its members after the report of a committee to inquire into the charges against him shall have been made."

The jurisdiction inherent in the Assembly is so exclusive in character that even the judicial pronouncement of the highest court in this State as to the eligibility of one elected to sit in the Assembly would be ineffectual *ex proprio vigore* so far as the decision of the Assembly is concerned.

"But it is claimed that we have no jurisdiction to determine that the relator was ineligible to the office of Senator because the Constitution in Sec. 10 of Art. 3, provides that each house of the legislature 'shall be the judge of the elections, returns, and qualifications of its own members.' The courts cannot interfere with this jurisdiction of the Senate. Whatever may be determined here or elsewhere as to the election or qualification of the relator, or the result of the election in the 27th senatorial district, when the senate convenes, and not until then, it will have absolute jurisdiction of the whole subject; and may determine which of the two persons claiming seats therein was duly elected and qualified to sit therein; and it may determine that one was ineligible, and that the other was not

elected, and that thus there is a vacancy in that district for a new election." (*People ex rel Sherwood v. Bd. Canvassers*, 129 N. Y. 360, at pp. 372-373 of opinion of the Court, per Earl, J. See also opinion per Cullen, Ch. J., in matter of *Sherill v. O'Brien*, 188 N. Y. 185, at p. 214.)

Moreover, even when there is no judicial power to declare disabled to hold office, on a proceeding by or in the nature of a *quo warranto*, because of bribery in procuring his election, one elected to such office, the power of the Legislature to determine questions of membership is not affected by such limitation on the judicial power which is necessarily dependent on the law itself.

"We are also cited to cases where persons have been excluded from public bodies for bribery in procuring their appointment or election thereto, but *in those cases such bodies were empowered to determine questions of membership.*"\* Those cases do not touch the question of disability to hold office presented to the court on a proceeding by or in the nature of a *quo warranto*."

*People ex rel. Bush v. Thornton*, 25 Hun, 456, 465.

Care must be exercised in considering judicial decisions dealing with express limitation on the jurisdiction of courts in political cases, for it must always be remembered that the judicial branch of the government has no power to suggest even the disqualification or exigency which the legislative branch may consider sufficient for the exclusion or expulsion of a legislative member. Indeed, judicial decisions are of interest only, and only then, in so far as they are declaratory of the exclusive power of the Legislature in all matters pertaining to its membership.

\* Italics ours.

These proceedings, therefore, not only do not tend to subvert the foundations upon which our institutions rest but constitute the exclusive means and method by which the issue of the eligibility and qualifications of the five Socialists must be tried and determined. An investigation into the eligibility and qualifications of these men was the only proper and just course to pursue when their eligibility and qualifications were questioned. The exercise of the inherent power of the Assembly to declare qualified or disqualified, to seat or exclude, to retain or expel these men, should properly follow an inquiry such as has been had. The result of this inquiry will determine what action the Assembly will take. In taking such action the Legislature will merely exercise its inherent parliamentary and declared constitutional and statutory powers. Parliamentary power is an incident of parliamentary government; the Constitution is certainly a part of our constitutional system.

(2) *Disloyalty is a recognized reason for exercising the power of exclusion or expulsion.*

*It is inherently implied in every constitutional provision under which the Assembly has its existence that no man is qualified to sit as a member who has not the indispensable qualification of loyalty to the Government.*

*The Third Section of the Fourteenth Amendment to the Constitution of the United States does not make loyalty a qualification and disloyalty a disability, but is merely a limitation on the power of Congress and State Legislatures to disregard the disloyalty of those who, having been members of the Federal or any State Legislature, "shall have engaged in insurrection or rebellion against the "United States" or given aid or comfort to the enemies thereof." Such a person may not be accepted by the National or any State*

*Legislature as eligible to membership therein until Congress has, "by a vote of two-thirds of each House" removed such disability.*

*The Amendment is therefore a limitation upon the power of qualification by the National and State Legislatures and not the imposition of a new qualification or disability.*

*It was conceded by counsel for the Socialist Assemblymen at the very beginning of these proceedings that if the disloyalty alleged in the resolution appointing this Committee were proved, such disloyalty must necessarily result in the exclusion from the Assembly of these five men.*

We have seen that every parliamentary body has the inherent power to judge of the qualifications of its members and is the sole judge of such qualifications and of the exigency which may justify and require the exercise of the power of expulsion.

We have seen further that constitutional provisions relating to that power are either declaratory of its existence or limitations on the exercise of it.

Such constitutional provisions do not therefore either create or extend the power, for as an inherent power it is ample.

We now come to a consideration of the cases in which loyalty has been held to be an indispensable qualification and disloyalty a disqualification for membership in a parliamentary body, justifying exclusion from the body.

The first reported case in which disloyalty as a disqualification was considered is that of *Benjamin Stark*, appointed a Senator of the United States by the Governor of Oregon to fill a vacancy. His credentials were presented on January 6th, 1862, in the Senate, by his colleague, Senator Nesmith. A motion was made by

Senator Fessenden of Maine that the oath be not administered and that the credentials, with certain papers which he offered, be referred to the Committee on Judiciary. This motion was debated at length.

It was admitted by Mr. Fessenden that he considered the motion unprecedented, but he considered it justified by the papers which he presented. These papers consisted of affidavits of persons in Oregon who swore that they had heard Mr. Stark make disloyal speeches.

In the debate it appeared that persons presenting credentials as Senators had been denied their seats pending investigation; but that in such cases there had been involved questions of law only raised by the wording of the credentials themselves or by the Senate taking judicial knowledge of a fact as to the session of a Legislature. But in this case a fact as to qualification was raised, and it was contended that loyalty was not one of the three enumerated qualifications. (1 *Hinds Parliamentary Precedents, ubi infra.*)

Senator Fessenden's motion was agreed to, and on February 7, 1862, Senator Harris of New York submitted the report of the Committee on Judiciary, as follows:

"The Committee on the Judiciary to whom were referred the credentials of Benjamin Stark as a Senator from the State of Oregon, with the accompanying papers, have had the same under consideration, and without expressing any opinion as to the effect of the papers before them upon any subsequent proceedings in the case, they report the following resolution:

"*Resolved*, That Benjamin Stark of Oregon, appointed a Senator of that State by the Governor thereof is entitled to take the constitutional oath of office."

Senator Lyman Trumbull of Illinois, chairman of the Committee, dissented from the conclusions of the Committee and among the views submitted by him were the following:

“ That one, an avowed traitor, a convicted felon, or person known to be disloyal to the Government has a constitutional right to be admitted into the body would imply that the Senate has no power of protecting itself — *a power which, from the nature of things, must be inherent in every legislative body.* \* \* \* Hence the undersigned, conceiving that it was the duty of the committee to have expressed its opinion on the evidence of disloyalty before it and to have reported in favor of or against the swearing in of the Senator as the evidence should warrant, and not allow him to be first sworn, and leave the question of his loyalty to be subsequently determined on motion to expel, the undersigned forbears to review the evidence of disloyalty before the Committee or express any opinion upon it till the pending question of jurisdiction to consider it is determined.”

Senator Harris in opening the debate on the report gave the reasons for the conclusion which he had submitted for the Committee.

“ The question submitted to the Committee was whether or not evidence of this description (certain *ex parte* affidavits alleging treasonable declarations) could be allowed to prevail against his *prima facie* right to take his seat as a Senator. The Committee were of opinion that they could not.”

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\* Italics ours.

Expressing his personal opinion as to the extent of the power of the Senate, Senator Harris said:

"I understand the Senate is the judge of the election of a Senator, of the sufficiency and genuineness of the returns furnished and the evidence of the election; and also of the constitutional qualifications of the individual to hold a seat in the Senate. Beyond that I apprehend the Senate have no power at all."

Charles Sumner of Massachusetts urged that the Constitution required the oath to support the Constitution and that this was in effect another constitutional qualification as to loyalty. Senator Howe of Wisconsin and Senator Sherman of Ohio contended that the clause of the Constitution requiring the oath did not in effect impose a fourth qualification. It was urged by Senator Doolittle of Wisconsin that

"the power given to a majority to pass upon his qualifications implies the power to pass upon his disqualifications also and that they may refuse to admit to a seat one who is disqualified as an avowed traitor. I am more inclined to that opinion because, after the question of his right to a seat upon this ground is distinctly raised and passed upon by the Senate it may become *res adjudicata* which cannot be reopened."

It was further urged by Senator Sherman that the power to expel was unlimited and he cited English cases to show that it may be applied to offenses committed before election.

The resolution constituting the report of the Committee on the Judiciary was amended by adding to it

the words "without prejudice to any subsequent proceedings in the case" and as so amended was adopted as follows:

*"Resolved, That Benjamin Stark of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office without prejudice to any subsequent proceedings in the case."\**

The vote was "Yeas" 26, "Nays" 19.

The day after the adoption of the resolution Stark, who had taken the oath, offered a resolution as follows:

*"Resolved, that the papers relating to the loyalty of Benjamin Stark, a Senator from Oregon, be withdrawn from the files of the Senate and referred to the Committee on the Judiciary with instructions to investigate the charges preferred against said Stark on all evidence which has been or may be presented and with power to send for persons and papers."*

This resolution was amended by substituting a Select Committee for the Judiciary Committee and was then agreed to.

The Select Committee considered the allegations and charges contained in the papers submitted to them by the Senate and found the following conclusions from the facts proved, viz.:

*"First, that for many months prior to the 21st of November, 1861, and up to that time, the said Stark was an ardent advocate of the cause of the rebellious states.*

*"Second, that after the formation of the Constitution of the Confederate States he openly*

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\*Italics ours.

declared his admiration for it and advocated the absorption of the loyal States of the Union into the Southern Confederacy under that constitution as the only means of peace, warmly avowing his sympathy for the South.

"Third, that the Senator from Oregon is disloyal to the Government of the United States."

The report gives extracts from the evidence and argument to show the reasons for these conclusions:

The report contains the following definition of "disloyalty":

*"By disloyalty the Committee means the want of fidelity to his allegiance to the country, and a disregard of the duty he owes her in this her hour of need and peril."\**

Commenting upon a letter written by Stark in June, 1861, and a statement made by him to the Committee, the Committee reported as follows:

"Indeed this letter of June, 1861, and the statement of the Senator to the committee have added much to the weight of the other proof. The first tallies in sentiment and spirit with the witnesses; the other, though made when the Senator was under an accusation of disloyalty in papers referred to the committee upon his own motion, and though the committee by inviting that statement intended to give the Senator an opportunity to express his sympathy with his suffering country and menaced government and to remove so far as he could in that way any impeachment of his loyalty, is as barren of all such expressions as a

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\* Italics ours.

bill of indictment. There is not in it a paragraph, nor a sentence, nor a line such as must spontaneously have burst out from a loyal heart under such an accusation. True, he speaks of being entitled to the presumptions of loyalty, but there is no manly declaration of any determination to stand by the country in weal or woe or to give life or fortune or any assistance whatever to her requirements. In Oregon he was frequent and open in his expressions of sympathy for the Rebels: He was, say the witnesses, the advocate of their cause. But here he is as silent as the grave. Though accused of disloyalty, though the country 'bleeds at every pore,' though she imploringly raises her hands to him in his high place for aid and succor — he has never a word in his statement, nor an expression, sentence, or line from which a drop of sympathy can be wrung, unless it be in his assertion that 'in every respect their declarations are unjust to my real sentiments and at variance with the whole tenor of my life.'

"What those sentiments are he does not tell us, nor have the Committee any means of knowing by any evidence before them. If he had declared them to the committee, asserting his loyalty to the government, the committee would have given him the full benefit of them; and perhaps they might have gone far to have removed the unfavorable conclusions to which the committee have come. But in the absence of any such declarations the committee could only pass on the evidence that was before them, giving him the full benefit of every presumption that can arise in his favor, and of every deduction that should be made for a conflict of testimony.

“ ‘He that is not for us is against us’ are the words of inspiration, and never more applicable than on occasions like the present. It is quite true the Senator was under no obligation to use any such expressions in his statement, but the committee cannot but believe that had the feelings existed which would have prompted them they could not have been confined in a patriotic heart — they would have found expression.

“ Upon taking his seat in the Senate, the Senator took the oath to support the Constitution of the United States; and it may be objected he would not have done so if not loyal to the Government. What were the reservations, what the limitations or interpretations, with which the Senator took that oath the committee do not inquire; for the Senator does not assert that his feelings and views have changed since the witnesses testified. He does not pretend that he is more loyal now than when he declared his sympathies were with the South, that they were right and could not be coerced. And the committee remember and know that in their presence, since the taking of that oath, and since the institution of this inquiry, the Senator boldly and without condition declared he would be willing the loyal states should be absorbed under the constitution of the Confederacy for the sake of peace — that is, that the Constitution of our fathers, which he had just sworn to support, should be cast out of its rightful inheritance by the bastard sprout of a gigantic rebellion, which should ‘reign in its stead.’

“ Could the traitors desire more, to wit, peace and the adoption of their government?

"It is the aim of their efforts; their avowed intent and purpose. No man can yield it, unless compelled by dire necessity, and not be liable to an impeachment of his loyalty.

"All true lovers of the country desire peace, but he who would seek it through its destruction and overthrow must be either a craven or disloyal citizen.

"The committee are, therefore, compelled to dismiss this consideration, and adopt the foregoing findings, adding that the appearance of the Senator before the committee, his singular declarations, statements, and conduct, have done much to strengthen the last conclusion of the committee.

"It would have been far pleasanter to them not to have done so, and they hoped, upon entering upon this investigation, the Senator would have made such proofs and statements as would have removed from him all suspicion of disloyalty. But he has failed to do so, and the duty was left to the committee to judge only upon what was before them. From that duty there could be no shrinking in a time like this; and the committee have endeavored to discharge it thoroughly and fearlessly, and now submit their conclusions to the Senate.

"DAN'L CLARK.

"J. M. HOWARD.

"JOSEPH A. WRIGHT.

"JOHN SHERMAN.

"Concurring in the first two conclusions of the majority of the committee, I am yet constrained, not without hesitation, to differ with them in their third and last conclusion. Distrusting all *ex parte*

testimony, especially in regard to expressions uttered in the heat of high political excitement, seeing that the sentiments and opinions thus attributed to Mr. Stark are virtually denied and repudiated by him in his written statement before the committee; remembering that since it is alleged those conversations took place, and those expressions were uttered, Mr. Stark, in taking his seat as a Senator, has purged himself of these sinister allegations by taking the oath to support the Constitution of the United States, and especially fearing the danger of making mere difference of opinion, however wide and fundamental, a test of fidelity to the Government, I am not prepared to say that Mr. Stark is *now disloyal*.

“W. J. WILLEY.”

On the report of the Committee Senator Sumner submitted the following resolution for consideration:

“Resolved, That Benjamin Stark, a Senator from Oregon, who has been found by a committee of this body to be disloyal to the Government of the United States be and the same is hereby expelled from the Senate.”

This was on May 7th. It was then stated by Senator Sherman, who signed the report, that as only a small portion of the session remained and the people of Oregon would very soon have the opportunity of passing on Mr. Stark's loyalty, he did not favor the presentation of a resolution of expulsion. Senator Sumner, however, pressed the question to the attention of the Senate, and on June 6th, almost without debate, the question was taken on agreeing to the resolution and it was disagreed to — “Yeas” 16. “Nays” 21.

The diversity of opinion expressed during this debate and the extent to which the determinations of the Senate were influenced by incidental matters, is hardly surprising since, as Senator Sumner said, "Never before in the history of our government has any person appeared to take a seat in this body whose previous conduct and declarations, as presented to the attention of the Senate, gave reasonable ground to distrust his loyalty. That case, sir, is without a precedent. It belongs, therefore, to the Senate to make a precedent in order to deal with an unprecedented case."

(The foregoing statement of the proceedings in the *Stark* case is taken from 1 *Hinds' Precedents of the House of Representatives*, pp. 433 to 440, and *Compilation of Senate Election Cases* from 1789 to 1885, published by the Government Printing Office in 1903, at pp. 284 to 297.)

On July 2, 1862 (12 *Stat. L.* p. 502) it was by *Act of Congress* enacted:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation:

"I. A. B., do solemnly swear (or affirm), that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought,

nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter; so help me God."

On December 18, 1863, the oath or affirmation prescribed by the Act of July 2, 1862, known as the "Ironclad Oath," being then in force, Senator Sumner proposed a rule requiring all Senators to take and subscribe in open Senate to the oath or affirmation provided for by the aforesaid Act. This gave rise to a lengthy and learned debate on the subject of the oath required by the Constitution and upon the question of establishing qualifications outside of those provided for by the Constitution.

Senator Bayard, of Delaware, was of the opinion that the "Ironclad Oath" was of dangerous unconstitutionality. Senator Powell declared that "many of us held that this law when passed was unconstitutional."

The reason for the oath was very completely and cogently stated in a speech by Senator Collamer, of Vermont (*1st Session, 38th Congress, Congressional*

*Globe*, p. 275). Referring to those representatives from Southern States who up to the year 1861 had occupied seats in the Senate, "who disclaimed all allegiance to our Government, who claimed the right to dismember that Government as a Constitutional right, who set on foot plans to execute these purposes, and who openly declared such to be their purposes," and who in 1862 were not in the Senate for obvious reasons, the Senator said: "Those men and men like them must be put out of this body and they must be kept out of this body. No other course could secure the country."

Despite the contentions of those who opposed the rule on the ground that the oath itself was an unconstitutional one, the resolution was agreed to by a vote of 28 yeas, nays 11, on January 25, 1864. On the following day Senator Bayard, of Delaware, accepting the determination of the Senate as expressed in the resolution, desired to make some remarks regarding his personal position, and permission was given him so to do after the oath had been administered to him. These remarks, it developed, were an explanation of his reasons for then and there resigning from the Senate of the United States after thirteen years' service.

We commend to the consideration of those who have indulged in dire forebodings over the consequences of the proceedings now pending before this Committee and the Assembly the prophecies contained in Senator Bayard's remarks, prophecies which happily have not been fulfilled and which in retrospect were clearly never justified. (*Ibid.* p. 342.)

The House of Representatives, before the adoption of the Fourteenth Amendment, denied the oath to members-elect who presented themselves with credentials in due form but whose loyalty was questioned; and their credentials were referred to a committee.

On July 3, 1867, the Congress having assembled from a recess caused by a temporary adjournment, the Clerk called the names of eight gentlemen returned as members-elect from the State of Kentucky, with credentials in due form.

Thereupon Mr. Robert C. Schenck, of Ohio, challenged the right of one of them, *Mr. John D. Young*, to take the oath on the ground that he had given aid and comfort to the enemies of the Government. Mr. Schenck produced affidavits in support of this charge. Mr. John A. Logan, of Illinois, also presented affidavits charging *Mr. L. S. Trimble*, another of the members-elect from Kentucky, with disloyalty. Mr. John F. Benjamin, of Missouri, on his responsibility as a member, challenged the loyalty of a third, *Mr. J. Proctor Knott*. In the course of the debate the fact was developed that only one of the eight, *Mr. George M. Adams*, was free from the objections which were being urged.

After the debate of the House — yeas, 67; noes, 50 — agreed to the following:

“Whereas it is alleged that in the election recently held in the State of Kentucky for Representatives in the Fortieth Congress the legal and loyal voters in the several districts in said state have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; and whereas it is alleged that several of the representatives-elect from that State are *disloyal*;\* Therefore be it

“Resolved, That the credentials of *L. S. Trimble*, *John Young Brown*, *J. Proctor Knott*, *A. P.*

\* Italics ours.

*Grover, Thomas L. Jones, James B. Beck and John D. Young*, Members-elect from the State of Kentucky, shall be referred to the Committee on Elections for report at as early a day as practicable."

On July 5th, a proposition that the oath be administered to Messrs. *Beck* and *Grover*, against whom the charges of disloyalty were less specific, led to a discussion of the grounds for refusing the oath to a person presenting a certificate in due form, members asserting that such action was justifiable in a case of alleged personal disqualification. The proposition was referred to the Committee on Elections.

On July 8th the Committee on Elections reported, through Mr. Henry L. Dawes, of Massachusetts, reciting the allegations that had been made, and concluding:

"The committee are of the opinion that no person who had been engaged in armed hostility to the Government of the United States, or who has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a Member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a Member of this House ought to be investigated and reported upon before such person is permitted to take the seat; but all charges touching the disloyalty of a constituency in a State in which loyal civil government was not overthrown during the late rebellion, or the illegality of an election, are matters which pertain to a contest in the ordinary way, and should not prevent a person holding a regular certificate from taking his seat."

In view of this report the House agreed to a resolution giving the committee the authority necessary to inquire whether any or either of the remaining seven of the original eight persons were disqualified.

“from sitting as Members of this House on account of their having been guilty of acts of disloyalty to the Government of the United States, or having given aid or comfort to its enemies.”

On December 3, 1867, Mr. Burton C. Cook, of Illinois, submitted the report. After affirming again the principles set forth in the former report the committee say:

*“It is apparent that there must be power in this House to prevent this (seating of disloyal persons), the House being the judge of the qualifications of its Members, of which fidelity to the Constitution is one,\* and that this end can only be certainly accomplished by the investigation of any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House, before such person is permitted to take the seat. The House concurred in this view of the committee by adopting the resolution under which the committee is now acting. The principle upon which this preliminary investigation was ordered was adopted by Congress when the oath of office was to be taken by Members of this House was prescribed by law, and the preliminary investigation of specific and apparently wellfounded charges against a person claiming a seat in this House is only an additional mode of attaining the same result sought*

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\* Italics ours.

to be secured by requiring the oath to be taken by all persons who become members of the House.

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“Whether at some future time provisions should be made by law by which those persons who have been at one time guilty of acts of disloyalty, but have by their subsequent conduct given conclusive evidence of loyalty, attachment to the Government, and obedience to the Constitution and laws, should be permitted to take seats in this House, is a matter which addresses itself to the considerate judgment of Congress, but upon which the committee is not now called upon to express an opinion. But while the committee entertained no doubt that it is the right and duty of this House to turn back from its very threshold everyone seeking to enter who has been engaged in armed hostility to the Government of the United States, or has given aid and comfort to its enemies during the late rebellion, yet we believe that in our Government the right of representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proved that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proved by clear and satisfactory testimony, and that while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is

shown by proof that the claimant has by act or speech given aid or countenance to the rebellion, he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances, as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

The committee found that in the case of four out of the seven members-elect from Kentucky it was not proved that they had been engaged in armed hostility to the Government of the United States or given aid and comfort to its enemies, and recommended that they be sworn in as members of the House. (*Hinds' Precedents*, pp. 441-444.)

One of the remaining cases referred to the Committee was that of *John Young Brown*.

This case is described by Hinds as "the first of its kind since the formation of the Constitution" and was recognized by the House as of the highest importance. It was divided into two branches, which the House decided to debate and decide separately, viz.:

(1) The question as to *whether or not John Young Brown was disqualified from sitting as a Member of the House on account of his having been guilty of acts of disloyalty to the Government of the United States, or having given aid or comfort to its enemies.*

The evidence relied upon to support the charge of disloyalty against Mr. Brown was contained in the following letter written by him at the time it bears

date to the editors of the *Louisville Courier* and published in that paper on the 15th day of May following:

"Elizabethtown, April 18, 1861.

"Editors *Louisville Courier*:

"My attention has been called to the following paragraph, which appeared in your paper of this date:

"John Young Brown's Position.— This gentleman in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South —

" 'I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.' "

"This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the *government of the Confederate States!* What I did say was this:

" 'Not one man or one dollar will Kentucky furnish *Lincoln* to aid *him* in his *unholy war against the South*. If this *northern army* shall attempt to cross our borders, *we will resist it unto the death*; and if one man shall be found in our Commonwealth to volunteer to join them *he ought* and I believe *will be shot down before he leaves the State.*' "

"This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than *I frequently uttered publicly and privately* prior to my debate with him.

"Respectfully,

"JOHN YOUNG BROWN."

The majority of the committee concluded that Brown having "voluntarily given aid, countenance, counsel and encouragement to persons engaged in armed hostility to the United States" was not entitled to take the oath of office or be admitted to the House as a Representative from the State of Kentucky. The minority contended that considering the circumstances at the time the letter was written, it was not disloyal. The conflict in the House was especially vigorous over the legality of the proposed action.

In opposition to the action recommended by the majority of the Committee it was urged that in the compact known as the Constitution it was agreed that no State should elect any person who should not have three specified qualifications, of age, citizenship and inhabitancy. Either House might judge the elections, returns, and qualifications of its own members and might expel. Subject to these limitations the right and power of the States over their Representatives are exclusive and complete. The attempt in the Act of July 2, 1862, to impose another qualification was in direct conflict with the terms of the original pact. The imposition of additional limitations not being among the powers granted to the Congress, it must be unconstitutional and void. But even supposing the Act of 1862 to be constitutional, it was not competent for the House to inquire whether a member might take the oath. That was a question for him to determine by himself. It was further urged, although not as vital, that even under the terms of the Act of 1862 the oath might not be rightfully required, since there was a broad distinction between a Member of Congress and the officer referred to in that act. Further, the law of the oath was unconstitutional in that it was *ex post facto* and assumed to punish for alleged offenses committed before its en-

actment, and also to punish without legal trial and conviction. In the case of *Ex parte Garland* the Supreme Court had held this oath unconstitutional when applied to lawyers. The oath was also unconstitutional, because the Constitution prescribed only an oath "to support this Constitution." Under the legal principle "*expressio unius exclusio alterius*" it was to be presumed that the Constitution meant what was written and nothing more. The same doctrine would indicate that in enumerating the three qualifications the Constitution intended that there should be no more. In support of this contention Justice Story was quoted. It was true that the House was the judge of the qualifications of its own members, but this did not mean that it might create new qualifications. It must sit in a judicial and not a legislative capacity, and decide only whether the member had the three enumerated qualifications. This argument as to the inability of the House to add qualifications by itself was admitted to be sound by the chairman of the Elections Committee, who presented the report against Mr. Brown, but he of course held that the Congress might by the law of the oath establish the additional qualification of loyalty.

In support of the resolution of exclusion it was argued that the government might go behind the qualifications enumerated in the Constitution. It was true that only three qualifications were specified, but did not this mean that no man should serve who had not at least these three qualifications? It had been held that the States might not impose other qualifications, but it did not necessarily follow that the Congress, with the approval of the President, *i. e.*, the government, might not prescribe other qualifications. *It was inherently implied in every constitutional provision under which*

*the House had its existence that no man should be qualified to sit as a Member who had not the indispensable qualification of loyalty to the government.* The laws of human society authorized a government to resort to all means to preserve itself. In *McCulloch v. Maryland*, Chief Justice Marshall had set forth views sustaining the argument that Congress had full powers of preservation of itself. The Congress of 1862 had full power to adopt the form of oath in question in this case as a consequence. It was further urged that if under the Constitution no qualifications except those enumerated could be required, then the great leaders of the recent rebellion might be elected to the House and seated. Even expulsion might not be a remedy, since if a man had a right to take a seat he had a right to hold it. By laws passed in 1793 and 1853, disqualifying persons guilty of certain acts from holding any office of honor, trust, or profit under the United States, Congress had asserted its rights to prescribe additional qualifications. It could not be said that exclusion from the House in the pending case was an *ex post facto* punishment, for a disqualification from holding office was not an increase of penalty.

In rebuttal the minority argued that the case of *McCulloch v. The State of Maryland* had no application to the pending case. Also, the effect of the acts of 1793 and 1853 was denied on the ground that a member of Congress was not an officer within the meaning of those laws.

On February 13 the question was taken on a motion of Mr. Michael C. Kerr, of Indiana, to substitute for the resolution proposed by the majority the following:

“That John Young Brown, not having voluntarily given aid, countenance, counsel or encouragement to persons engaged in armed hostility to

the United States, and having received a majority of the votes cast in the Second district of Kentucky for Representative in this House, is entitled to admission and to take the oath of office as a Representative from said district."

This amendment was disagreed to, yeas, 43; nays, 38.

The resolution of the majority, excluding Mr. Brown, was then agreed to without division. (1 *Hinds' Precedents*, pp. 444-448.)

On the second branch of the case relating to the right of the contestant to the seat the committee were united. They held, and in so holding were supported by the vote of the House, that the contestant not having received a majority of the votes cast was not entitled to a seat therein as such Representative. (*Ibid.* pp. 448-451.)

On March 18, 1867, the credentials of *Philip F. Thomas*, Senator-elect from Maryland, were presented in the Senate. Senator Howard, of Michigan, objected that there were rumors affecting the loyalty of Mr. Thomas, and moved that the credentials be referred to the Committee on the Judiciary, and on March 19, the credentials were so referred without division.

On December 18 Senator Reverdy Johnson, of Maryland, submitted the following resolution from the Committee on the Judiciary.

"Resolved, That the Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oath prescribed by the Constitution and laws of the United States.

On January 6, 1868, the report was taken up and the debate began as to whether or not the act of Mr.

Thomas in assisting his son, who had entered the military service of the Confederacy, was an act giving aid and comfort to the enemies of the Government. The test oath was also discussed and its bearing on the question of qualifications, Senator Edmunds, of Vermont, contending that the Constitution did not definitely prescribe all the qualifications but that there existed the authority to impose other qualifications.

The report was debated at length, the most prominent members of the Senate taking part in it.

Referring to the Fourteenth Amendment, Senator Sumner, of Massachusetts, said:

"But even without this amendment, I can not doubt that the original text (i. e. of the Constitution) is sufficiently clear and explicit. It is nowhere said in the Constitution that certain specified requirements and none others shall be 'qualifications' of Senators. The word 'qualifications' which plays such a part in this case, occurs in another connection, where it is provided that 'each House shall be the judge of the elections, returns and qualifications of its own members.' What these 'qualifications' may be is to be found elsewhere. Searching the Constitution from beginning to end we find three 'qualifications' which come under the head of form' being (1) age, (2) citizenship, and (3) inhabitancy in the State. *But behind and above these is another 'qualification', which is of substance, in contradiction to form only. So supreme is this that it is placed under the safeguard of an oath. This is loyalty.\** It is easy to see how infinitely more important is this than either of the others — than age, than citizenship, or than

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\* Italics ours.

inhabitaney in the State. A Senator failing in either of these would be incompetent by the letter of the Constitution; but the Republic might not suffer from his presence. On the other hand, a Senator failing in loyalty is a public enemy, whose presence in this council Chamber would be a certain peril to the Republic.

*"It is vain to say that loyalty is not declared to be a 'qualification'. I deny it. Loyalty is made a 'qualification' in the amendment to the Constitution; and then again in the original text, when in the most solemn way possible it is distinguished and guarded by an oath. Men are familiarly said to 'qualify' when they take the oath of office, and this the language of common life furnishes an authentic interpretation to the Constitution.\**

*"But no man can be allowed to take the oath as Senator when, on the evidence before the Senate, he is not competent.\* If it appear that he is not of sufficient age, or of the required citizenship or inhabitaney, he can not be allowed to go to that desk. Especially if it appear that he fails in the all-important 'qualification' of loyalty, he can not be allowed to go to that desk. A false oath, taken with our knowledge, would compromise the Senate. We who consent will become parties to the falsehood. We shall be parties in the offense.\* It is futile to say that the oath is one of purgation only, and that it is for him who takes it to determine on his conscience if he can take it. The Senate can not forget the evidence; nor can its*

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\* Italics ours.

responsibility in the case be swallowed up in any process of individual purgation. On the evidence we must act and judge accordingly. *The 'open sesame' of this Chamber must be something more than the oath of a suspected applicant.\**

"According to Lord Coke, 'an infidel can not be sworn' as a witness. This was an early rule which has since been softened in our courts. But *under the Constitution of the United States and existing statutes a 'political infidel can not be sworn' as a Senator.\** Whatever may be his inclination or motive he must not be allowed to approach your desk. *The country has a right to expect that all who enter here shall have a sure and well-founded loyalty, above all question or 'suspicion.' And such I insist is the rule of the Constitution and of Congress.\**

"As if to place the question beyond all doubt, Congress by positive enactment requires that every Senator, before admission to his seat, shall swear that he has 'voluntarily given no aid, countenance, counsel, or encouragement, to persons engaged in armed hostility' to the United States. *Here is little more than an interpretation of the Constitution.\** The conclusion is plain. No person who has voluntarily given even 'countenance' or 'encouragement' to another engaged in the rebellion can be allowed to take that oath."

This speech is of the utmost importance as to the meaning of the Third Section of the Fourteenth Amendment, since it was Sumner himself who proposed the section. (*Life of Charles Sumner, by Moorfield Storey in American Statesmen Series, Vol. XXX.* (p. 317.)

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\* Italics ours.

The resolution submitted by Senator Johnson to seat Thomas was determined in the negative, yeas 21, nays 28, and the Senate by a vote of yeas 27, nays 20, agreed to the following, offered by Senator Drake, of Missouri:

“Resolved, That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland, or to hold a seat in this body as such Senator; and that the President pro tempore of the Senate inform the Governor of the State of Maryland of the action of the Senate in the premises.” (1 *Hinds' Precedents*, pp. 466-470.)

In the case of *Brigham H. Roberts* the majority of the Committee found three distinct grounds of disqualification:

(a) By reason of his violation of the Edmunds act and declared policy of disqualification in section 8.

(b) By reason of *disloyalty*.

(c) Because his election as Representative was an explicit and offensive violation of the understanding by which Utah was admitted as a State.

His *disloyalty* is thus described by the majority report:

“He is disqualified because for years he has been living in open, flagrant, and notorious defiance of the statutes of Utah and in open, flagrant and notorious defiance of the statutes of Congress — of the very body which he now seeks to enter, in defiance of the law as declared by the Supreme

Court of the United States, and in defiance of the proclamations of Presidents Harrison and Cleveland. He has persistently held himself above the law. This is *disloyalty*\* in its very essence. In the language of Chief Justice Waite, in the *Reynolds* case, this would in effect 'permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.' "

The majority say on this point:

"The principles underlying the second main ground of disqualification, hereinbefore asserted, have already been fully discussed, but the ground is appropriately restated at this point.

"We assert before the House, the country, and history that it is absolutely and impregnably sound, not to be effectively attacked, consonant with every legislative precedent, in harmony with the law and with the text books on the subject:

"That Brigham H. Roberts's persistent, notorious, and defiant violation of one of the most solemn acts ever passed by Congress, by the very body which he seeks now to enter, on the theory that he is above the law, and his defiant violation of the laws of his own State, necessarily render him ineligible, disqualified, unfit, and unworthy to be a member of the House of Representatives. *And this proposition is asserted not so much for reasons personal to the membership of the House as because it goes to the very integrity of the House and the Republic as such.*" \*

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\*Italics ours.

In accordance with the facts and arguments as set forth in their report the majority recommended the following:

“Resolved, That under the facts and circumstances of this case, Brigham H. Roberts, Representative-elect from the State of Utah, ought not to have or hold a seat in the House of Representatives, and that the seat to which he was elected is hereby declared vacant.”

The minority proposed as a substitute the following:

*“Resolved, That Brigham H. Roberts, having been duly elected a Representative in the Fifty-sixth Congress from the State of Utah, with the qualifications requisite for admission to the House as such, is entitled, as a constitutional right, to take the oath of office prescribed for members-elect, his status as a polygamist, unlawfully cohabiting with plural wives, affording constitutional ground for expulsion, but not for exclusion from the House.”*

The resolutions were called up in the House on January 23, 1900, and debated until January 25, when the question was taken on substituting the minority for the majority resolution, and resulted — yeas 81, nays 244. The question then recurring on the adoption of the majority resolution, there were — yeas 268, nays 50. So the majority resolution was agreed to unamended. (1 *Hinds' Precedents*, pp. 518 to 560; on the question of *disloyalty* as a disqualification see p. 557.)

Other cases in which the Houses of Congress acted upon the assumption that the disloyalty of a member-

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\*Italics ours.

elect was a ground of disqualification are the following:

*David T. Patterson*, a Senator-elect from Tennessee, whose credentials were presented on July 26, 1866, and after debate were referred to the Committee on the Judiciary, with instructions to inquire into Mr. Patterson's qualifications. The motion to refer was made by Senator Sumner on a mere statement by a Senator that the loyalty of the Senator-elect was doubtful, and despite the fact that "the dangers of excluding persons bearing credentials in due form was dwelt on," the motion of Senator Sumner was agreed to, yeas 26, nays 14. (*Ibid.* pp. 459-461.)

*John D. Young*, a Representative-elect from Kentucky, was in June, 1868, refused a seat in the House of Representatives because, in the language of the majority of the committee, he "has been guilty of such acts of disloyalty that he cannot honestly and truly take the oath prescribed by the Act of July 2, 1862" (*Ibid.*, pp. 451-453).

*Michael Ryan*, a Member-elect of the House of Representatives, was in 1870 denied admission and his contestant was subsequently declared entitled to the seat. One of the charges which was considered and found adversely to Mr. Ryan was that of disloyalty (*Id.* p. 224.)

*Louis St. Martin*, a Member-elect of the House of Representatives, was found by the Committee on Elections unable to take the test oath of loyalty in 1869, and although the House did not act on the report, the Committee on Elections considered that it disposed of the claim of Mr. St. Martin to the seat; and the House by its vote excluded him (*Id.* pp. 221-222).

On November 21, 1867, the members-elect to the

House of Representatives from the State of Tennessee appeared to take the oath when Mr. James Brooks of New York challenged *Mr. William B. Stokes*, alleging that he had been disloyal during the war, and presenting in support thereof a letter alleged to have been written by Mr. Stokes in 1861, announcing an intention to resist the Federal Government.

On the same day, *Mr. James Mullins* was challenged on the charge of disloyalty, in support of which a letter written by an army officer but not verified by oath was read, charging Mr. Mullins with disloyal utterances in 1861.

In the debate it was argued that in these two cases the charge was not made on the responsibility of a member supported by affidavits, that the gentlemen in question were known to have acted loyally during the war and that the evidence against them was not sufficient to preclude their taking the test oath with the approval of their own consciences.

Resolutions to refer the credentials and deny the oath to the two members-elect were disagreed to by the House and they were sworn.

On the same day Mr. Brooks challenged the right of *Mr. R. R. Butler*, of Tennessee, to be sworn on the ground that he had been disloyal to the government, presenting in support of the charge the Journal of the Legislature of the State of Tennessee at the time of the Secession acts.

After debate the House agreed to the following resolution:

“Resolved, That the credentials of R. R. Butler from the First District of Tennessee be referred to the Committee of Elections and that he be not sworn pending the investigation.”

On February 25, 1868, Mr. Henry L. Dawes, of Massachusetts, from the Committee on Elections submitted a report in the case of Mr. Butler. This report states that the only objection raised against Mr. Butler who had a large majority of the votes in the district was disloyalty. It appeared that on December 14, 1861, as a member of the Secession Legislature of Tennessee he had voted for resolutions pledging the State to the Southern Confederacy. Mr. Butler admitted this but claimed that nevertheless he then was a Union man and continued to be afterward. There was also evidence tending to show that he remained in the Legislature to be of service to Union men and that his votes were understood not to express his views. There was no doubt that after returning from the Legislature he served actively as a Union man.

The report of the committee acquitted him of disloyalty, but held that he could not truthfully swear to the test oath then in force, that he "neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States," and recommended that "by a joint resolution so much of the oath as thus stands in the way of admission to a seat in this House of one truly loyal throughout the war may be omitted in administering the oath of office to Mr. Butler."

The joint resolution came up for debate on March 4, 1868. It provided that Mr. Butler be admitted to his seat upon taking the usual oath to support the Constitution of the United States, and upon taking all of the "test oath" excepting the words: "That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any

authority or pretended authority in hostility to the United States."

After this joint resolution was reported it appeared that Mr. Butler had before the war taken an oath to support the Constitution of the United States, and therefore that his case came within the third section of the fourteenth amendment to the Constitution of the United States. There was some question as to whether this amendment was yet in force. (It was submitted to the states in 1866, but not formally declared operative until a date subsequent to this proceeding.) After debate, on March 5th, the House voted to recommit the joint resolution with instructions to the committee to report a bill for the relief of Mr. Butler, and also a general bill for such persons as might have their disabilities removed by a two-thirds vote in accordance with section 3 of the fourteenth amendment to the Constitution. On March 6th two bills were introduced in accordance with these instructions. They were debated at length in both House and Senate, the question of Mr. Butler's loyalty and of the desirability of modifying the requirements of the test oath being especially considered. The bill relating to Mr. Butler passed both the House and Senate by two-thirds vote, and it was understood at the time that a two-thirds vote was necessary.

The Act of Congress removing the disability as finally perfected in Mr. Butler's case provided:

"That all legal and political disabilities imposed by the United States upon Roderick R. Butler, of Tennessee, in consequence of participation in the recent rebellion, be, and the same hereby are removed. And the said Butler, on entering upon the discharge of the duties of any office to which he has been or may be elected or

appointed, instead of the oath prescribed by the act of July 2, 1862, shall take and subscribe the following oath. (Here followed an oath to support the Constitution.)”

This act was approved June 19, 1868, and on June 26th Mr. Butler appeared and took the oath.

The general law approved July 11, 1868, provided the same oath for persons generally whose disabilities should be removed by a two-thirds vote of the two Houses.

Burgess in his work on *Political Science and Constitutional Law*, p. 52, says:

“We desire at the very threshold of this discussion to lay down these general propositions never to be forgotten and always to be kept clearly in mind:

“1. That the House has never denied that it had the right to refuse to permit a Member-elect to be sworn in although he had all of the three constitutional qualifications.

“2. That it has in many instances affirmatively declared that it had the right to thus refuse.

“3. That the right to so refuse is supported on principle and by the overwhelming weight of authority of constitutional and judicial opinions on analogous constitutional questions.”

The recent exclusion from Congress of *Victor L. Berger* is, therefore, not based upon the constitutional provision, consisting of the third section of the Fourteenth Amendment, but upon the inherent right determined by the practically unanimous body of parliamentary precedent to disqualify for disloyalty.

The only effect of the constitutional amendment was to impose a limitation upon the power of either branch of Congress or State legislative body to admit Berger to a seat therein until he had been purged of his disability by a two-thirds vote of each House of Congress.

This was not a constitutional declaration of disqualification in the sense that such disqualification had never theretofore existed, but a limitation on the power to admit again to a legislative body a man who, having as a member of a national or State legislative body taken the oath to support the Constitution of the United States, had violated it and was against presenting himself for membership in a body, the qualifying condition to membership in which was the oath that he had already broken. The third section of the Fourteenth Amendment does not permit him to be seated until the United States, speaking by a two-thirds vote of each House of Congress has declared him purged of his offense against the national government.

The foregoing, as we have seen, are cases relating to exclusion for disloyalty. We now come to a case that deals with the power of expulsion for the same disqualification or disability:

On March 5, 1862, *Jesse D. Bright* was expelled from the Senate of the United States because of a letter that he had written to Jefferson Davis on March 1, 1861. The Committee on Judiciary to whom was referred the resolution to expel Senator Bright from his seat in the Senate by a majority report were of the opinion that the facts charged against Senator Bright were not sufficient to warrant his expulsion from the Senate. The Committee, however, was not unanimous.

Senator Sumner, speaking in the Senate, contended that in a case of expulsion the Senate was not governed

by judicial rules and was at liberty to exercise a discretion unknown to judicial bodies.

Senator Davis, of Kentucky, said:

“Whenever a Member of this House forms opinions and in his official character and acts carries out those opinions, positively or negatively, in such manner as to render him an unfit and unsafe member of the Senate, he becomes a proper subject of removal from the body. \* \* \* There is no common law, no statutory law, there is no parliamentary law, that binds the Senate to any particular definition of crime or offense in acting in this or any other case of the kind.”

Senator Davis, acting in harmony with these principles, proposed the expulsion fully as much because Senator Bright opposed the conduct of the administration as for the writing of the letter. Those opposing expulsion, notably Senator Cowan, of Pennsylvania, urged that the issue should be confined strictly to the letter, and that it should be interpreted in view of the state of affairs existing when it was written.

After the debate the question was taken on agreeing to the resolution proposed by Senator Wilkinson as follows:

“And whereas, we believe the said letter is evidence of *disloyalty*\* to the United States and is calculated to give aid and comfort to the common enemies, therefore, be it

“Resolved, that the said Jesse D. Bright be expelled from his seat in the Senate of the United States.”

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\* Italics ours.

This was agreed to: Yeas, 32, Nays, 14. So Mr. Bright was expelled. (2 *Hinds' Precedents*, pp. 824-825.)

*John M. Rice*, a Member of the House of Representatives, was challenged in 1869 on account of alleged disloyalty, but permitted by the House to take the oath, pending examination of the charges. The Elections Committee proposed to expel him for disloyalty although he had already been sworn in. The Committee were reversed on the facts, but the propriety of the proceeding recommended was not questioned (*Id.* pp. 472-473.)

The cases of *Lucas E. Decker*, fully covered in the closing argument made by Senator Brown, of counsel for the Committee (pp. 2286-2290), *Rosenstein v. Eskmann* and *Assemblyman Whitehorn*, cited by counsel for the Socialist Assemblymen (*brief for S. A.*, pp. 105-108) are not in point, inasmuch as the disability of disloyalty was not therein involved.

Furthermore, if those cases were authority for the contention made by counsel for the Socialist Assemblymen, which contention is utterly immaterial in view of the character of the issue before the Committee, they would be opposed to the weight of authority in this country, and in this connection the following from the report submitted by the Committee on Privileges and Elections in the investigation of the charges against *Senator C. Reed Smoot*, from the State of Utah, (*Senate Documents*, Vol. 27, p. 467) is pertinent:

“Before proceeding to an examination of the protest and answer, and the testimony taken by the committee, it may be well to examine, briefly, the authority of the Senate in the premises and the nature and scope of the investigation.

"The Constitution provides (Art. I, Sec. 2, Para. 1) that each House shall be the judge of the elections, returns and qualifications of its own members. It is now well established by the decisions of the Senate in a number of cases that in order to be a fit representative of a sovereign State of the Union in the Senate of the United States one must be in all respects obedient to the constitution and laws of the United States and of the State from which he comes, *and must also be desirous of the welfare of the country and in hearty accord and sympathy with its government and institutions.*"\*

"If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation or its government, he is regarded as being unfit to perform the important and confidential duties of a Senator, and may be deprived of his seat in the Senate, *although he may have done no act of which a court of justice could take cognizance.*"\*

Following the above statement the Committee cites in brief form the authorities which guided such Committee in its deliberations in the *Smoot* case, and these authorities we will here refer to briefly:

*The Case of William Blount*, Senator from Tennessee, in the year 1797, deprived of his seat in the Senate because of "conduct inconsistent with his public trust and duty as a Senator." The gravamen of the offense was the writing of a letter to one Carey, the purpose of which was to induce said Carey to alienate the affections and confidence of the Indians from the

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\* *Italics ours.*

public officers of the United States residing among them. Blount was expelled by a vote of 25 ayes to 1 no.

*The Case of John Smith*, Senator from Ohio, charged with associating himself with Aaron Burr in a "conspiracy against the peace and prosperity of the United States." Smith was not expelled. There being 19 votes for expulsion and 10 against, just one short of the necessary two-thirds. A portion of the report of the committee on the expulsion of Smith, written by John Quincy Adams, is pertinent as bearing upon the power and authority vested by the Senate over its members as follows:

"In examining the question whether these forms of judicial proceedings or the rules of judicial evidence ought to be applied to the exercise of that censorial authority which the Senate of the United States possesses over the conduct of its members, let us assume as the test of their application either the dictates of unfettered reason, the letter and spirit of the Constitution, or precedents, domestic or foreign, and your committee believe that the result will be the same — that the power of expelling a member must, in its nature, be discretionary, and in its exercise always more summary than the tardy process of judicial tribunals.

"The power to expel a member for misconduct results on the principle of common sense, from the interest of the nation that the high trust of legislation should be invested in pure hands. When the trust is elective it is not to be presumed that the constituent body will commit the deposit to the keeping of worthless characters. But when a man who his fellow citizens have honored with their confidence on the pledge of his spotless reputation has degraded himself by commission of in-

famous crimes, \* \* \* defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member, which should have no remedy of amputation to apply until the poison had reached the heart."

*The Case of Jesse D. Bright.* He was, as we have already seen (*supra*, pp. 46-48), *deprived of his seat because it was believed that his desires and conduct were opposed to the welfare and interests of the nation.*

Senator Sumner, addressing the Senate on the expulsion of Mr. Bright, asserted:

"Under the Constitution, the Senate, in a case like the present, is the absolute judge, free to exercise its power according to its own enlightened discretion. It may justly declare a Senator unworthy of a seat in this body on evidence defective in form, or on evidence even which does not constitute positive crime. \* \* \* It is obvious that the Senate may act on any evidence which shall be satisfactory to show that one of its members is unworthy of his seat without bringing it to the test of any rules of law. It is true that the good name of the individual is in question; but so also is the good name of the Senate, not forgetting also the welfare of the country; if there are generous presumptions of personal innocence, so also are there irresistible instincts of self-defense which compel us to act vigorously, not only to preserve the good name of the Senate, but also to preserve the country." (*See Congressional Globe, Second Session, 37th Congress, pp. 412-414.*)

Also, Senator Davis in addressing the Senate on the question of Mr. Bright's expulsion states:

"There is no law which defines any particular class of offenses that shall be sufficient to expel a Senator from his seat. The Common Law does not. There is no statute law that does. There are no rules of evidence establishing technical rules of testimony that are to guide and control and govern this body in getting its lights and reaching its conclusions when a Senator is thus on trial. The general rule and principle of law and of reason and common sense is that whatever disqualifies a member of the Senate from the proper discharge of his duties, whatever it may be, is sufficient and ought to be held sufficient, for his expulsion, and whatever evidence satisfies the mind reasonably and according to moral certainty and truth of the existence of that cause is sufficient evidence without resorting to the technical rules of testimony upon which to convict him." (See *Story's Commentaries on the Constitution*, Sec. 836.)

Further, Senator McDougall, addressing the body on the charges against Mr. Bright, asserts:

"It is no question of law. We have not asked whether the Senator from Indiana is guilty or not guilty. We have to judge him in our best judgment, and by that we try him; and we may say yea or nay, as we think, whether he be a true man or not to sit in the federal councils to conduct the affairs of the United States."

*The Case of Philip F. Thomas.* In this case, as we have noted (*supra*, pp. 34-38), it did not develop that there was any well-founded claim that Mr. Thomas

had been guilty of any act or conduct of which any court could take cognizance, but the conclusion was reached that "he gave aid, countenance, and encouragement to persons engaged in armed hostility to the United States." (*Senate Election Cases, Third Edition, pp. 333-339.*)

Finally, under this branch of the case, it was conceded on the second day of the hearing before this committee in the discussion of the charges by counsel for the five Socialist Assemblymen, that if the disloyalty contained in what he called the "seventh charge" of the resolution appointing this Committee were proved, such disloyalty must necessarily result in the exclusion from the Assembly of these five men.

The admission is based upon a clear understanding of the law, and a correct analysis of the charge. It is as follows:

"Your last charge I shall refer to, and it is No. 7. It is the only charge which I consider has any merits. You say: 'The Socialist Party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the prosecution of the said war, and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.'

"That is a fairly definite statement of what the framers of this may have considered to be the truth. That is an issue we are quite willing to meet and I think it will be an issue that they will regret they ever suggested, for we

are very certain and positive no proof, no act of the declarations of the party, either in its more prominent councils, or its locals will be found to verify in the slightest degree that statement.

“ If this party advocated and urged its members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of war and did thereby stamp the said party and all its members, and so forth, if that is proven against the party and these men are members of it, we will have nothing to say except leave these chambers in humiliation. Those of us who know the record of the party are only induced to smile at so unfortunate a statement growing out of such inadequate information.

“ The other clauses that you have deal with opinions, deal with regulations, deal with theoretical opinions of the party and these parties should not be placed on trial, because, admitting all of them to be true, they would constitute conditions which might exist consistent with all the requisite qualifications of a man elected to a representative body in a country where liberty exists and the soul of America still throbs.”

(3) *Expulsion from a parliamentary body may be for a cause arising before as well as after membership in the body and with respect to such anterior cause the power of expulsion is concomitant with the power of exclusion.*

*Case of Jotham P. Allds.* Senator Allds was investigated by the Senate of the State of New York in the session of 1910 upon a charge made by Senator Conger to the effect that in April, 1901, while Allds was a member of the Assembly of the State of New York, he had received and accepted the sum of \$1,000, as a consideration for having refrained from pressing to passage a certain bill then pending before the Assembly. The Senate took testimony covering over 2,000 pages, the case was summed up by counsel for Senator Allds and by counsel supporting the charges, and the Senate was ready to vote thereon when, March 29, 1910, Senator Allds resigned his office. Having resigned, of course he could not be expelled, but, notwithstanding said resignation, the Senate after consideration of their power and duty in the matter voted to sustain the charges — 38 ayes and 8 noes.

Of course the investigation was never a mere academic inquiry. If Allds had not resigned he would have been expelled. He resigned in order to escape what would have been his inevitable fate. He was represented by able counsel and tried before a Senate containing lawyers of the highest professional standing.

At page 2068, Volume 16, Senate Documents, Session 1910, Mr. Carr, of counsel for Senator Allds, replying to a question from Senator Brackett whether a vote in the affirmative on the pending question would or would not *ipso facto* forfeit the office, said:

“ You ask me a question, if, upon your affirmative vote upon the resolution, whether it would *ipso facto* remove him from the office of Senator. I say no, but it would be the basis of action that it would be your duty to take if you discharged your duties as Senators to remove him from the place, and when that is the consequence to flow,

whether it be directly or indirectly if you put it that way, I have the right to argue that he is entitled to the benefit of the same rule as the man who goes into a court of justice upon an indictment of this kind and pleads to that indictment and is put on trial for it.

"In other words, he comes here with the presumption of innocence, and until that garb of innocence has been stripped away by the proof that has been given, until that armor has been pierced through by the evidence presented he must go acquitted as innocent."

*Case of Whitmore of South Carolina.* This case is cited in the argument of Mr. Van Cott of counsel for the impeachment managers on the trial of Judge Barnard (p. 169), from which it appears that Whitmore was expelled by the House of Representatives for selling cadetships. He was thereafter re-elected by his constituents, but the House excluded him for the original cause.

This case also refutes the argument that the voters of a district having elected a representative with full knowledge of the fault or offense have so adjudicated the matter from the public standpoint that the elected member cannot be expelled for the offense or misconduct thus passed over and forgiven by the electors.

*Credit Mobilier Cases.* In these cases there was considered the question of the power of expulsion in its relation to offenses committed before the member's election. The members involved were charged with bribery committed several years before the election of the then existing House, and while the House preferred censure to expulsion it declined to express doubt as to its power to expel. (2 *Hinds' Precedents*, p. 852.)

The question is thus considered in the report of the Special Committee, as follows:

“ The committee have no occasion in this report to discuss the question as to the power or duty of the House in a case where a constituency, with a full knowledge of the objectionable character of a man, have selected him to be their representative. It is hardly a case to be supposed that any constituency, with a full knowledge that a man had been guilty of an offense involving moral turpitude, would elect him. The majority of the committee are not prepared to concede such a man could be forced upon the House, and would not consider the expulsion of such a man any violation of the rights of the electors, for while the electors have rights that should be respected, the House as a body has rights also that should be protected and preserved. But that in such case the judgment of the constituency would be entitled to the greatest consideration, and that this should form an important element in its determination, is readily admitted.

“ It is universally conceded, as we believe, that the House has ample jurisdiction to punish or expel a Member for an offense committed during his term as a member, though committed during a vacation of Congress and in no way connected with his duties as a Member. Upon what principle is it that such a jurisdiction can be maintained? It must be upon one or both of the following: That the offense shows him to be an unworthy and improper man to be a member, or that his conduct brings odium and reproach upon the body. But suppose the offense has been com-

mitted prior to his election, but comes to light afterwards, is the effect upon his own character, or the reproach and disgrace upon the body, if they allow him to remain a Member, any the less? we can see no difference in principle in the two cases, and to attempt any would be to create a purely technical and arbitrary distinction, having no just foundation. In our judgment the time is not at all material, except it be coupled with the further fact that he was reelected with a knowledge on the part of his constituents of what he had been guilty, and in such event we have given our views of the effect.

“It seems to us absurd to say that an election has given a man political absolution for an offense which was unknown to his constituents. If it be urged again, as it has sometimes been, that this view of the power of the House, and the true ground of its proper exercise, may be laid hold of and used improperly, it may be answered that no rule, however narrow and limited, that may be adopted can prevent it. If two-thirds of the House shall see fit to expel a man because they do not like his political or religious principles, or without any reason at all, they have the power, and there is no remedy except by appeal to the people. Such exercise of the power would be wrongful, and violative of the principles of the Constitution, but we see no encouragement of such wrong in the view we hold.”

The Committee on the Judiciary, on the contrary, made a report particularly on the question whether the testimony taken by the investigating committee warranted articles of impeachment in which they maintained that neither impeachment nor exclusion

should be invoked for offenses committed *before* election.

While the resolutions presented by the Investigating Committee providing for the expulsion of Ames and Brooks were under consideration, a member of the House offered a substitute containing the following preamble:

“Whereas, by the report of the Special Committee herein, it appears that the acts charged as offenses against members of this House in connection with the Credit Mobilier occurred more than five years ago, and long before the election of such persons to this Congress, two elections by the people having intervened; and whereas, grave doubt exists as to the rightful exercise by this House of its powers to expel a member for offenses committed by such member long before his election thereto, and not connected with such election:

“Therefore, etc.”

This preamble expressing doubt as to the power to expel for offenses committed before election, was disagreed to: Yeas 98, Noes 113.

For the long and careful debate on the expulsion of members in connection with this preamble see *Congressional Globe*, 42d Congress, Third Session, pp. 137, 159, 164, 176, 188, 195.

*Case of Justice George G. Barnard in the Court of Impeachment.* Articles of Impeachment against Justice Barnard were presented by the Assembly to the President of the Senate of the State of New York, May 13, 1872. In the main the articles referred to misconduct of Justice Barnard in a prior term and the question was argued at great length whether he could be impeached for offenses committed during said prior

term (the argument upon that question begins at page 151 and closes on page 191 of the record), the court holding by a vote of 23 to 9 that "the impeachment could properly rest upon said *prior* \* offenses."

The argument on behalf of the respondent was made by William A. Beach, and on behalf of the managers by Josiah M. Van Cott, and the decision of the court stands as unquestioned law today in this State. All the precedents were then collated and examined and the correctness of that decision has never been successfully challenged.

It was cited and upheld upon the impeachment of Governor Sulzer in 1913.

*Case of Governor Sulzer.* Governor Sulzer was accused by the Assembly and tried before the Court for the Trial of Impeachments principally for acts committed before the opening of his term January 1, 1913.

It was strenuously maintained by the learned counsel for the Governor that he could not be impeached for acts committed before the commencement of his term and much stress was laid upon the proposition that the *Barnard* case was not a precedent inasmuch as the offenses were committed by Judge Barnard while he was acting as a Justice of the Supreme Court, although in a preceding term, but the acts charged against Sulzer were committed before he ever occupied the gubernatorial chair.

The question received most careful attention and there was an extended discussion not only by the learned counsel who represented the managers and the Governor but also by the members of the Court. The Judges of the Court of Appeals and the Senators were divided upon the subject but by a vote of 39 to 18 Charge No. 1, which involved acts committed *prior* to the commencement of his term, was sustained. (See

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\*Italics ours.

Vol. 2, p. 1686, *Proceedings in the Court of Impeachment, People v. Sulzer*, 1913.)

The case of *Senator James Wood*, cited by counsel for the Socialist Assemblymen (*Brief for S. A.*, pp. 108-109), is therefore against the weight of authority and the Assembly, despite the assertion to the contrary in that brief (*id.* p. 97), is not limited to conduct during the term of office in considering the question of expulsion.

(4) *There is no constitutional limitation in this state of the power of expulsion as there is under the Federal Constitution requiring a two-thirds vote of the Members of either House to expel a member. Exclusion or expulsion can be accomplished by the Assembly by a majority vote and it makes little difference whether the judgment is exclusion or expulsion, since the offense of which these men stand convicted before this Committee is a continuing one of which they were guilty at the time they presented themselves for membership in the Assembly.*

Whether the members of the Committee reach the conclusion that the testimony justifies exclusion or are convinced that while it does not justify exclusion, it justifies the expulsion of these five men is of no great consequence, for the authority vested in this Committee to conduct an "investigation of the qualifications and eligibility of the said persons to their respective seats in this Assembly," and to report to the Assembly "its determinations as to the qualifications and eligibility" of these men and each of them respectively to a seat in the Assembly, is broad enough, if the finding shall be that they are guilty of disloyalty and that such disloyalty existed before and continued up to the time of their appearance in this House, to

warrant a recommendation either of exclusion or expulsion.

(5) *The provision in the Constitution of this State that "no other oath, declaration or test shall be required as a qualification for any office of public trust" than the oath to support the Constitution of the United States and the Constitution of the State of New York (Art. XIII, Sec. 1), does not eliminate loyalty as a qualification for membership in the Assembly and disloyalty as a disqualification for such membership; neither does it deprive the Assembly of its inherent power to exclude disloyal persons from membership in this body.*

It is insisted that the language of Article XIII, Section 1, of the Constitution of this State declaring that "no other oath, declaration or test shall be required as a qualification for any office of public trust" than the oath to support the Constitution of the United States and the Constitution of the State of New York, eliminates loyalty as a qualification for membership in the Assembly and disloyalty as a disqualification for such membership and renders the Assembly of this State legally powerless to exclude or expel a disloyal person from membership in this body. In fact, the contention is pressed even further, and it is insisted that anyone, no matter how incompetent or utterly unfit in any respect, must be admitted to this body if he accomplishes the formality of taking, truly or falsely, comprehendingly or even insanely, the constitutional oath of office.

A mere statement of this proposition is its refutation. The astonishing contention which results in such an absurd conclusion is due to confusing *qualification* with *test*.

No test, *i. e.*, no attestation of the possession of qualification, is required or permitted by our Constitution other than the taking of an oath of loyalty, and every other test, *i. e.*, the attestation of the possession of any other qualification than that of loyalty, is prohibited. The qualification of loyalty, of course, is, as we shall hereinafter see (*infra*, p. 73), attested by the taking of the oath to support the Constitution of the United States and the Constitution of the State of New York; but by requiring that such an oath and no other shall be exacted, the Constitution does not dispense with the qualification of loyalty itself. Otherwise, the profession of the possession of the qualification would take the place of the qualification and the mere taking of the oath would be a substitute for loyalty and a shield for disloyalty.

No such result was ever intended to be accomplished by this constitutional provision, whose purpose it is to prohibit the requiring or imposing of a religious, political or other qualification, and the possession thereof to be attested by an oath, declaration or test, in addition to the constitutional oath. (*People ex rel. Rogers v. Common Council of Buffalo*, 123 N. Y. 173; *Rathbone v. Wirth*, 150 N. Y. 459, at p. 484 of Opinion *per* O'Brien, J.) In short, the nature of the constitutional oath is itself expressive and declarative of the only qualification for membership in this body with which the Constitution is concerned, to wit, the qualification of loyalty to the United States and the State of New York. Therefore, it is prescribed that no other test than such oath may be required, for such test would necessarily refer to and require other qualifications in addition to loyalty.

In this respect there is no difference between the Federal and State Constitutions. Each requires a test

of loyalty to the Nation by the oath to support the National Constitution. The State Constitution requires the additional test of loyalty to the State by the oath to support the State Constitution. Limitations on the power to require other tests may differ in each Constitution, but the requirement of the essential quality of loyalty is the same in both.

(6) *The oath to support the Constitution of Nation and State can not be effectually taken by disloyal men.*

An oath, according to *Bouvier*, is "An outward pledge given by the person taking it that his attestation or promise is made under an immediate sense of his responsibility to God." It has always derived its force from the presumption that the person taking it would be less liable to make a false statement if, when he made the statement, his attention was forcibly called to the beliefs of his religion in regard to the punishment of falsehood and of the existence of a Being capable of inflicting such punishment. It will be seen, therefore, that the very essence of an oath is not the outward formality but the inner state of mind of the person taking it and this fact is shown beyond dispute by the cases which prescribe the form of oaths to be administered to persons of various religious beliefs and at the present day oaths are administered in the ways most binding upon the conscience of the person taking them. Thus it has been held in the past that while a Hindoo who was a believer in a Supreme Being could take an oath, a person of any country who disclaimed such a belief was incapable.

The most famous case on this point is that of *Attorney-General v. Bradlaugh*, 14 Q. B. D. 667, which was an action for a statutory penalty against a Member of

Parliament for sitting and voting in Parliament without having taken the oath prescribed by statute. Bradlaugh, the defendant, was duly elected by Parliament, and had gone through the form of taking an oath before the Speaker's desk, but it was proved by his own declaration that at the time of taking the oath he had no belief in a 'Supreme Being' and it was held that he had not taken the oath and was, therefore, liable for the statutory penalty. Lindley, L. J., in his opinion, expressed his conclusions as follows:

"The conclusion, therefore, to which I have arrived is this, that if the defendant's arguments were to prevail, and if every member who uttered the words in the form of the oath required to be taken, were to be held to be capable of taking them as an oath, the oath would be reduced to a meaningless form. For some reason an oath, or, to meet the scruples of some persons, a solemn declaration, is required to be made; and whatever the object may have been, the effect is, as I understand it, to exclude from sitting and voting in Parliament all those persons who, like the defendant, cannot lawfully make a declaration and who cannot take the oath, and to render them liable to penalties if they do sit and vote."

It is not denied that at the present day no such religious test would be lawful, but we do insist that if an oath is to retain any meaning it must constitute more than a meaningless form, and just as a contract which is entered into in jest and without the intention of constituting a valid obligation is not binding upon the parties, so a ceremony of which it could be proved that it was not accompanied with any intent and

merely used for purposes of deception is equally without validity.

In re *Bodek*, 63 Fed. 813, Circuit Judge Dallas held the naturalization oath of an applicant for citizenship void among other reasons because it was entered into without understanding of its purport or sacredness. The following is the reasoning contained in his opinion on this point:

“It may safely be assumed, I think, that congress, in requiring it to be made before the court, meant to assure its being made with decent solemnity; but, more than this, it is expressly provided that it shall be made ‘on oath,’ and therefore, in my opinion, it should not be accepted in any case in which, upon examination, it appears that the applicant does not understand its significance, or is without such knowledge of the Constitution as is essential to the rational assumption of an undertaking, avouched by oath, to support it. In many instances these declarations are made by men who have no counsel to inform or restrain them, and who themselves have no adequate appreciation of their purport, or of the sacredness of the accompanying oath, which, in order to accomplish the object in view, they are often quite willing to take as a matter of course. I cannot shut my eyes to the existence of this abuse (see *Shars. Leg. Eth.* p. 111), nor regard as sufficient under the statutes any oath which relevant questioning results in showing is not intelligently and conscientiously tendered.”

A thorough analysis by the Court of Appeals of this State of the meaning and essentials of an oath is contained in the opinion of Judge Finch in *O'Reilly v.*

*The People of the State of New York*, 86 N. Y. 154. Although there is nothing in that opinion bearing directly upon the question now under discussion, it is cited with approval in *Beekman v. The City of New York*, 200 N. Y. 53, where the Court of Appeals, by Judge Haight, considered the requirements of an oath which they define as follows:

“It is, therefore, apparent that some form of an oath or affirmation is essential, by or in the presence of the officer, by which the affiant’s conscience becomes bound with an oath. To those entertaining religious convictions, who believe in Christianity, the statute contemplates that they should take their oath with their hand resting upon the gospels, or that they should swear in the presence of the Ever-Living God. To those entertaining other religious views, the Court or officer may adopt such a ceremony as they recognize as binding upon their consciences; and if a person entertains no religious belief, or thinks it wrong to take an oath, he may be permitted to solemnly declare and affirm. Whatever the form adopted, it must be in the presence of an officer authorized to administer it, and it must be an unequivocal and present act by which the affiant consciously takes upon himself the obligation of an oath. (*People ex rel. Kenyon v. Sutherland*, 81 N. Y. 1, 8; *O’Reilly v. People*, 86 N. Y. 154, 158, 161.)”

It is to be observed that the constitutional oath now under consideration consists of two parts, the first part of which binds the affiant faithfully to discharge the duties of his office and to support the Constitution of the United States and of the State of New York, being

thus promissory in its nature. The second part is a declaration that he has not directly or indirectly given a bribe in order to secure his office and is declaratory in its nature. Only the latter half of the oath can, therefore, subject the affiant to the penalties of the law of perjury. It has been held (*People ex rel. Bush v. Thornton*, 25 Hun, [3d Dept.] 456 at 468) that the falsity of this latter oath or part of the oath when made does not invalidate the oath. There the court had before it the case of a judge sought to be ousted on a *quo warranto* because he had made a pre-election promise to draw only a part of his salary, which was an offer to bribe the electors and came under the second part of the oath.

In passing it should be noted that this case does not in any event bear upon the power of expulsion. The judge, whose title could not be attacked upon *quo warranto*, as a usurper, could nevertheless be impeached as a perjurer and removed in the manner provided by law for his offense.

As the promissory portion of this oath does not subject the affiant to the penalties of perjury it can have no force whatever if it may be entered into as a mere matter of form, and although in the majority of cases it may be impossible to prove that the mind of the official so taking it did not follow his act, nevertheless, where such fact is clearly proven, as it is in the present case, it would reduce this constitutional provision to an absurdity to hold that it could be so complied with. In the words of Senator Sumner, "the 'open sesame' of this chamber must be something more than the oath of a suspected applicant" (*supra*, p. —.)

The cases of *Green v. Shumway*, 39 N. Y. 418, and *Cummings v. The State of Missouri*, 4 Wall. (71 U. S.) 277 have no bearing whatever upon the questions before

the Committee. In the former case the constitutionality, under the Constitution of the United States and the Constitution of this State, of a statute passed March 29, 1867, which excluded from the privilege of voting all who refused to take the oath prescribed by the Act in question, was under consideration. One member of the Court of Appeals (Miller, J.) held that the statute was violative of the Federal Constitution, in that it was a bill of attainder and *ex post facto* law, and also held that the statute violated the Constitution of this State with respect to the qualifications of voters. Three members (Grover, Dwight and Clerke, JJ.) were of the opinion that the act in question violated the true intent and meaning of the Constitution of this State. One member (Bacon, J.) held that no provision of the Constitution of the State of New York was violated by the statute, but that the decisions of the Supreme Court of the United States required that it be held to violate the Constitution of the United States, and the remaining three members of the court (Hunt, Ch. J., and Mason and Woodruff, JJ.) dissented, holding that the Act was not inconsistent with either the Federal or State Constitution, refusing to follow the holding of the United States Supreme Court under the Federal Constitution.

In *Cummings v. The State of Missouri*, 4 Wall. 277, the appellant was indicted and convicted in the Circuit Court of Pike County, Missouri, for a crime created by the State in an amended and revised Constitution, which the court held was an *ex post facto* law intended to punish the appellant for what he had done before the creation of the offense for which he was convicted.

### THE ISSUE.

*(7) Is the Socialist Party of America, as at present constituted, a disloyal group of disloyal men whose members cannot effectually take the oath to support the Constitutions of the United States and the State of New York required to be taken by members of the Assembly? If this question be affirmatively answered the governmental duty of self-preservation requires that they be excluded from the Assembly.*

Before we come to a consideration of the evidence for the purpose of ascertaining whether the Committee should report that these five men are qualified or disqualified, eligible or ineligible, should be seated or unseated, by the process of exclusion or expulsion, it is desirable that a preliminary word be said regarding the character of the issue involved in this inquiry.

It is not merely for the benefit of this Committee, nor even of the Assembly itself, that we deem it necessary to bring together in proper order and sequence and discuss the bearing and force of the testimony with relation to the issue to be determined. It is of paramount importance that this should be done in order that the people of the State of New York and of the whole country may be fully advised as to the character of this issue and thoroughly informed of the nature of the peril and danger to the institutions of State and Nation disclosed by the testimony.

It is a great issue with which this Committee is concerned, greater than any that has been faced in the lifetime of any member of the Assembly; fully as important as any that has been met in any of the great crises in American history. It is an issue which rises

above and beyond any and all considerations of political advantage and expediency.

We are here concerned with the right of self-preservation, admitted in this proceeding to be the fundamental duty of government as it is the fundamental law of individuals. "The first duty of a state is self-preservation," Curtis, J., 30 Fed. Cases, p. 1025. "The highest duty of government is self-preservation. Without it there can be no administration of law, civil or criminal." Sprague, J., in 3 Fed. Cases, p. 1042.

The constitutions of the Nation and State contain provisions intended to enable the respective governments of Nation and State to discharge this duty.

It is contemplated by our constitutions that the preservation of our government may be threatened and endangered, not only by force and violence, but by the conduct of disloyal men who, when elected to office, will not support but will subvert the constitutions of the State and Nation.

Accordingly the allegiance which every citizen owes to the United States is made explicit in the naturalization oath which is required as a condition of citizenship from those who foreswear allegiance to their former sovereign and accept and submit to allegiance to the United States. That oath is as follows:

"I will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

Those who owe allegiance to the United States and, when the existence of the nation is threatened by force and violence, wage war against the United States or adhere to their enemies, giving them aid and comfort, are guilty of treason (*Const. of the U. S.*, Art. III,

sec. 3), which is a breach of allegiance, the fundamental duty of the citizen and, therefore, the highest of all crimes.

"Treason is a breach of allegiance and can be committed by him only who owes allegiance, either perpetual or temporary."

*U. S. v. Wiltberger*, 5 Wheat. 76, 95;  
quoted in *Young v. U. S.*, 97 U. S. 39,  
62.

"Under the laws of the United States, the highest of all crimes is treason. It must be so in every civilized state; not only because the first duty of a state is self-preservation, but because this crime naturally leads to and involves many others, destructive of the safety of individuals and of the peace and welfare of society."

Curtis, J., Circuit Court, Mass., 1861,  
Charge to Grand Jury, 30 Fed. Cas.  
18,629 (p. 1025).

"The greatest crime known to the law is treason; self-preservation being the highest duty of Government, without it there can be no administration of law, civil or criminal."

Sprague, J. D. C., Mass. 1863, 3 Fed. Cas.  
18,274 (p. 1042).

The duty of self-preservation is accomplished not only by insistence upon allegiance, finding its explicit expression in the naturalization oath and punishment for its breach in the constitutional definition of treason; but is also secured by further constitutional requirements that make it a qualification for the holding of public office that the members of our legislative bodies shall be bound by oath or affirmation to support the

constitutions of the Nation and State. The implied allegiance of the citizen who, by virtue of such citizenship, is eligible to public office does not suffice, for it was assumed by the framers of our national and state constitutions that legislative office might not safely be intrusted even to those owing allegiance to the Nation and State unless they were bound in the most solemn form to support the national and state constitutions.

Accordingly, the framers of the Constitution of the United States, in recognition of the duty of self-preservation and in contemplation of the insidious menace of disloyal men bent upon the destruction of this government, made it a requirement by article VI, section 3 of the national constitution, that "the Senators and Representatives before mentioned and the members of the several state legislatures and all executive and judicial officers both of the United States and of the several states shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

In obedience to this mandate and for the same reasons and to accomplish a like purpose, the people of this State have provided in article XIII, section 1, of the Constitution of this State, that:

"Members of the Legislature, and all officers executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office

of . . . . ., according to the best of my ability;’ and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

“ ‘And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote,’ and no other oath, declaration or test shall be required as a qualification for any office of public trust.”

The purpose of these provisions is clear beyond all possibility of doubt. It was of fundamental importance — indeed, essential to the very life of the government — that no member of a disloyal organization should be permitted to sit in any legislative body, state or national, and participate in the making of the laws of the commonwealth which it was his purpose to destroy. As a test and assurance of loyalty it was therefore required that the oath of loyalty should be taken in order to make certain that the allegiance of each and every legislator was given wholly to the Constitution upon which the whole system of government was founded.

This oath is, therefore, as we have seen, no idle or meaningless ceremony. It is a real and vital thing — a thing, not of the letter, but of the heart and the mind and the spirit. The bulwark against disloyalty cannot be destroyed or set at naught

by one who takes the oath as a mere form while his allegiance and honor are in fact pledged to a disloyal organization whose purpose is the destruction of the very constitution which the oath of office requires him to support. The quality of loyalty to the government is, as we have seen, an absolutely indispensable condition of membership in its legislative bodies.

We are thus brought squarely to the question whether membership in the organization known as the Socialist Party as now constituted carrying with it as it does full and complete allegiance to its principles and program, disqualifies a member from truthfully and without reservation taking the constitutional oath of office and so disqualifies him from sitting as a member of the Assembly.

Let the issue be squarely stated and squarely met. If it has been demonstrated in this case that the Socialist Party as at present constituted is an organization whose program involves the destruction of our constitutional system of government, proposes to accomplish this object by any means required by the conditions and the exigencies of the time, owes allegiance not to the State and the Nation but to a foreign or international group by whose mandate it is morally bound, whose teachings are seditious and whose character is essentially disloyal: then it becomes the plain duty as well as the high privilege of the members of this Assembly in the performance of their own oath of office and in the defense of the State itself to declare in words that will redound to the credit and glory of the State of New York that no member of such an organization can qualify to sit as a member of this body.

It is by the organization to which they belong that these men must be judged. Their individual acts and declarations, in so far as they have been proved, serve

merely to illumine and show in concrete operation, the principles, purposes and program for which the organization stands and to confirm the seditious purposes of the party to which they belong.

Let us therefore turn to an examination of the testimony which demonstrates the real nature of the Socialist Party of America.

In making such examination we propose to avoid even the suggestion that the case depends upon the testimony of witnesses whose veracity may have been called in question or who may be accused of bias against the Socialist Party or Socialism and shall establish the facts by the official utterances of the party, the statements of its recognized and authoritative leaders and the declarations of the Assemblymen themselves.

## PART II.

### THE EVIDENCE.

I. The name "Socialist Party of America" is a misnomer. The organization which thus describes itself is neither a political party nor American: its members have not only repudiated their allegiance to the United States but avowed their allegiance to an internationale and anti-national organization, known as the Third or Moscow Internationale, and the Socialist Party of America now exists solely for the purpose of accomplishing in the United States, by any available means, determined only by national conditions and exigencies, a national revolution as part of an international revolution and the establishment of a national dictatorship to be part of an international dictatorship in accordance with the program of the Third or Moscow Internationale.

(A) *The Socialist Party of America has repudiated national allegiance by its adherence to the Third or Moscow Internationale.*

It becomes necessary at this place to explain why so much stress and emphasis have been laid upon the present international relations and affiliations of the Socialist Party of America.

It is true that the concept of Socialism as an international philosophy is not a new one. The international note was definitely struck by the famous Communist Manifesto drawn up in 1847, by Marx and Engels, with its closing exhortation: "Proletarians of all lands, 'Unite'". The theory of the class struggle, the underlying theory of the Marxian philosophy, is of course applicable to every country in which there are industrial workers. It is not a matter of surprise, therefore, that the phrases and expressions which time and again appear in the literature and documents received in evidence by the Committee and in the testimony of the witnesses may be read in the literature of Socialism for the past seventy years. "International working-class solidarity" is no new expression. It is correlative to the idea of "the class struggle" and concomitant with the expression of that idea. There is nothing new in any of these terms and expressions; neither is there anything novel in the participation of the Socialist Party of America in an international association of Socialists. Such participation has existed virtually since the organization was established, and even before the organization came into existence its predecessors participated, as have its kindred organizations since it was formed, as members of an international body.

The question naturally arises therefore why it is that at this particular time the Assembly of the State

of New York should become concerned with and vitally interested in the international relations and affiliations of the Socialist Party of America. This involves an explanation which goes to the very foundation of the charges that are under investigation in this inquiry.

The *First Internationale of Socialism*, founded by Marx and Engels, existed from 1864 until 1872. It was organized for the purpose of establishing international working-class solidarity. Its deathblow was dealt by the Franco-Prussian war which revealed that there was not in fact any compact power of the masses so-called (p. 289\*); for though in 1868 at the Congress held in Brussels, International Socialism had counted upon the spirit of solidarity among the workingmen of all countries to prove superior to their national allegiance in time of war (p. 1478), nevertheless, when war was declared between France and Germany, the Socialists of the contending nations supported their respective governments, thereby denying by their acts the profession of adherence to internationalism. When the test came in 1870, as it did in 1914, the nationalism of the German socialists proved superior to his adherence to Internationalism and he was loyal to and supported his government.

After the Franco-Prussian war there was no nucleus of International Socialism from which could be organized a new Internationale. It is obvious that French and German Socialists could not join in an organization whose cardinal principle and fundamental idea they had repudiated at the very time when that principle and idea demanded recognition and acceptance, and it was not until 1889, when practically a new generation had

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\* Unless otherwise noted, references are to pages in the printed record.

come into existence, that the second Internationale was organized.

The *Second Internationale*, like the first, was composed of Socialist groups from various countries. It gathered together and organized millions of the proletariat (p. 290). It was built upon the same foundations and for the purpose of making effective the same underlying principle and theory of internationalism as had been the First Internationale, and its purpose was to make International Socialism an accomplished and enduring fact. It established an International Socialist Bureau in Brussels. Meetings of the bureau were held twice a year (p. 1271), and at somewhat irregular periods congresses were held (p. 1275). These congresses have taken place in Paris, Zurich, Brussels, London, Amsterdam, Stuttgart and Copenhagen (p. 1277). "The declarations, the resolutions of the Internationale were considered as having a very high moral authority, as being intended for the guidance of the Socialist Party in the various countries" (p. 570).

The War of 1914 killed the Second Internationale, for when the test again came and Socialists were required to choose between their national allegiance and their adherence to the Internationale, some proved their allegiance to the countries to which they owed such allegiance by supporting those countries in the war, while others repudiated their national allegiance, denied that they owed any duty to support their governments and gave their support instead to the program of Internationalism.

Among those who supported their governments were the majority Socialists of Germany and the majority Socialists of Belgium and France. The history of the First Internationale at the time of the Franco-Prussian war was repeated.

The Socialist party of America, however, put its allegiance to the principles of Internationalism above its allegiance to the United States of America, which latter allegiance it denied and repudiated. Its members were false to their national allegiance but true to their adherence to Internationalism. They stigmatized national patriotism as a false doctrine and in its place substituted the ideal of international working-class solidarity and called upon the workers of the United States to refuse support to this government in the war.

Two thousand members of the party were arrested for their activities and the principal executive officers and members of the executive committee were indicted, convicted, and sentenced to terms of imprisonment for carrying out the war program of the party.

It is characteristic and illuminative of the attitude of the members of the Socialist party of America toward the allegiance which they owe to the United States that in the brief filed for the Socialist Assemblymen the difference between loyalty and disloyalty, between the recognition of national allegiance on the one hand and seditious and treasonable conduct on the other, is regarded as of no other significance and of no greater importance than as indicating a schism in the Socialist party. (*Brief for S. A.*, p. 54). The contention made by us that the Socialist party of America has utterly repudiated the idea of national allegiance of its members is completely demonstrated by the censure therein passed upon those groups of Socialists who do recognize national allegiance, that they "have been in Marxian phrase untrue to the principle of the class struggle." (*Ibid.*)

When the war ceased there were, therefore, broadly speaking, two classes of Socialist groups in the world,

each of which groups could theoretically constitute the nucleus for a new Internationale. On the one hand there were those groups that had remained loyal to their governments during the war, and on the other there were those groups that during the war had proved disloyal to their governments and loyal to the principles of internationalism. The character of a new Internationale would be essentially different, accordingly as it was composed of one or the other of these classes. Adherence to one group or the other would be evidentiary of the attitude of the adherent in the matter of national allegiance. Membership in an Internationale formed by the so-called pro-war Socialists carried with it the idea of national allegiance and faithlessness to the principle of Internationalism. Membership in an Internationale formed by the uncompromising revolutionary section of the International Socialist movement meant plainly faithlessness to national allegiance and adherence to Internationalism. The essential difference between these two classes was clearly established upon this inquiry and is confirmed by the brief filed on behalf of the Socialist Assemblymen. (*Ibid.*)

After the Armistice two conventions were held to decide the membership and principles of the new Internationale. One was held at Berne in Switzerland, the other at Moscow. The character of the former was obvious from the fact that it excluded the Russian Communists (*Brief for S. A., pp. 54-55*). It was composed of the loyal, or, as the Party in this country calls them, pro-war Socialists. There was, it is true, a smattering of revolutionary elements; but these were in a decided minority. The Socialist Party of America denounced the Berne conference and by Referendum "D" voted in the summer of 1919 to give its support to that Internationale only which should include the

Communists of Russia and the Spartacans of Germany (p. 2106).

In March, 1919, the Moscow conference or convention was held. It was called by the Communists of Russia to organize a *Third Internationale*. In the contemplation of those under whose auspices it was held, the Second Internationale was dead, and the Third Internationale was to be a departure from and a long step in advance of any position that had been taken by the Second Internationale. This time the uncompromising revolutionary section of the International Socialist movement determined that it would form an organization in which should participate no group that had been loyal to its government in the war, but which should be composed exclusively of those groups which had been loyal to the principles of Internationalism and consequently disloyal to their governments.

The Socialist Party of America cast its lot with Moscow and by that act, as well as its declarations and acts during the war, announced that henceforth its allegiance and support in time of the crisis would not be given to the United States of America but would be given, as they had been given during the war, to International Socialism.

We are therefore confronted at this day and by virtue of these recent events and facts with the necessity of determining how we shall treat this group of persons now in control of the Socialist Party of America and masquerading under its name as a political party, who are in the United States but not of it; who accept all of the benefits of citizenship but repudiate all of the duties of allegiance; who are the beneficiaries of our laws and institutions and the sacrifices of blood and treasure made for the perpetuation of our institutions but refuse to support them; who take all that they can

get but will give nothing; who so far from defending and maintaining the government, which is their sole and only guarantor of life, liberty, property and the pursuit of happiness, declare that they will obstruct and resist the government in the accomplishment of its duty of self preservation.

It is the first time since the Rebellion of 1861 that notice has been plainly and explicitly served upon the Government of the United States by a group residing within its borders that they will not support or defend it but, on the contrary, will by all means in their power obstruct and resist it in its efforts to maintain in time of stress and crisis its national honor and existence.

The present issue is precisely the same as that which was before the American people during the Civil War period and the precedents of that period are, therefore, applicable and have, in consequence, been treated in this brief at great length.

The issue transcends in importance even that which was raised by the proclamation of the war program of the Socialist Party of America, adopted in April, 1917; for disloyal and traitorous as that program was, the present International affiliation of this organization prove conclusively that their conduct at that time was not an isolated act of disloyalty but the initial step in a continuing program of treason. The Socialist Party of America as now constituted and with its present program is not a loyal American organization or political party disgraced *occasionally* by the traitorous act or declaration of a member but is a disloyal organization composed exclusively of *perpetual* traitors.

Therefore, the act of a member of that party in subscribing to the constitutional oath of office to support

the Constitution of the United States and the Constitution of the State of New York should be utterly disregarded as patently sham and a mere cloak for treachery.

The affiliation with Moscow followed in natural and inevitable sequence from the conduct of the organization during the late war.

It is only in times of national crisis and danger that any affirmative proof of loyalty is furnished by or demanded from the citizen. In time of peace and tranquility, allegiance and loyalty are negative things. It is only when the country is in danger that allegiance and loyalty become matters of the gravest importance and the necessity for making proof of them becomes inevitable.

It is, therefore, not surprising that the disavowal and repudiation by the Socialist Party of America of its allegiance to the United States and the declaration of its adherence to Internationalism were not manifested until the entry of the United States into the great World War, when immediately the anti-American and alien character of this organization became evident.

At the National Convention of the Socialist Party of America, held in St. Louis in April, 1917, a war program was adopted, later confirmed by referendum to the dues-paying membership of the organization. The appeal for support of the government in this time of national crisis was rejected by the party, and its members were directed to deny and repudiate allegiance to this government and reaffirm instead their allegiance to, and support of this anti-American organization.

Instead of a timely and appropriate declaration of allegiance to the United States of America, such as every loyal organization made when this country

entered the war, this anti-American party unmistakably revealed its real nature in the following language:

*"The Socialist Party of the United States in the present grave crisis solemnly reaffirms its allegiance to the principle of internationalism\* and working-class solidarity the world over and proclaims its unalterable opposition to the war just declared by the government of the United States."* (Rec. p. 449.)

It called upon the workers of this country to refuse support to this government in the war. No more explicit announcement of adherence to the enemies of this nation, giving them aid and comfort, was ever made by a traitor or set of traitors.

Adherence to the International and anti-American purposes to which this group is connected was manifested in the following language, expressly repudiating all sympathy with, or intent to support, the government of the United States, in time of national crisis, no matter how that crisis might have been brought about and even though the very existence of the nation itself were imperiled as the result of an unwarranted and unjustifiable attack involving the nation in the necessity of a defensive war:

*"The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare."\** (Rec. p. 450.)

This party declaration was only confirmatory of what the party members themselves understood to be the posi-

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\* Italics ours.

tion that they should take in a time of national crisis. Two of these Assemblymen, Waldman and Claessens, before the party declaration was written, signed pledges in utter violation of their naturalization oaths to protect and defend the constitution and laws of this government against all enemies whether foreign or domestic; and thereby solemnly bound themselves not only not to enlist for the purposes of such defense, but to withhold their approval of enlistment on the part of others.

The party kept clearly before its members the conflict between the doctrine and spirit of national patriotism and the anti-American disloyal and subversive ideal to which it not only stood committed but for which it demanded the unqualified support of its members;

*"As against the false doctrine of national patriotism we uphold the ideal of international working-class solidarity."\**

No ingeniously devised and cleverly phrased explanation of the witnesses on the stand as to the true meaning of the above solemn declaration of the Socialist Party can change to the satisfaction of any reasonable person its true intent, purpose and meaning. By this declaration national patriotism is held up to the scorn and ridicule of the working people of America. It is pictured as something false, something degrading, something to be abhorred and avoided. In this declaration is struck the true keynote of the philosophy of the Socialist Party of America. There, in one sentence, that party expresses its hatred and contempt for that quality without which no man may sit in a legislative hall and help in the making of laws for America for, above all other things, he who makes laws for America

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\* Italics ours.

must first have in his heart the ideal of patriotism, love of his country and a respect for its institutions.

Resistance to the raising of national armies and repudiation of the solemn obligations of the nation were advocated, approved and adopted by the deliberate and overwhelming support of the membership of the party and only deleted or excised from its platform by an utter usurpation of power on the part of the National Executive Committee of the Socialist Party to hide from the public authorities the illegal purposes of the party and to suppress and conceal the evidences of its unquestioned guilt. Today these illegal provisions stand unrepealed and no attempt has been made to effect their elimination from the platform of the party by any means known to or accepted by its organic law.

There has been no official attempt, despite the protestations of those who have taken the stand in behalf of these five men, to conceal the denationalizing character of this organization. It is evident from the unmistakable language we have already quoted and is also demonstrated by other party declarations throughout the war and since its termination. The anti-American attitude of this party cannot be justified by reference to the speeches and writings of American statesmen of the past who, in conformity with a policy of protest against what they conceived to be inimical to the best interests of the United States, had on occasion made declarations which are sought to be utilized in this proceeding as justification for the disloyal attitude of the Socialist Party of America. The explanation of the anti-American attitude of the Socialist Party of America during the war lies in the anti-national and pro-international character of its program. Its present members are not occasional but perpetual traitors, in constant conflict, not merely with the purposes of any

temporary administration of the affairs of this Government, but with its very institutions and fundamental laws. They are not citizens of the United States but subjects of the Internationale whose pronouncements are to be given their moral support, a support which they not only withhold from but deny to the Government of the United States. Their submission to the laws of this country is merely a matter of expediency or the result of the coercion of the Penal Law.

The first act of the Socialist Party of America after the war was to repudiate, as we have seen, those Socialists abroad who had supported their countries during the war.

When the old or Second Internationale ceased to have authority because of the refusal of those groups in the Socialist movement, criticized, condemned and repudiated as pro-war Socialists by the Socialist Party of America for having set their country above their allegiance to the creed of radical revolutionary Socialism, to adhere to the principles of radical revolutionary Socialism during the period of national stress and crisis, it was on radical revolutionary lines that the new Internationale was sought to be formed.

During the period of the war the Socialist Party of America maintained itself as part of this Internationale program by its adherence to "the uncompromising" group of International radical revolutionary Socialists who, under the leadership of Lenin, met at Zimmerwald in September, 1915, and at Kienthal in 1916, and on whose program the Third Internationale has been erected. By the use of the word "uncompromising" which will be found in the Chicago Manifesto, adopted September, 1919 (p. 305), the Socialist Party of America has reference to the anti-national, anti-patriotic, anti-coalition stand which it and the other radical revolutionary groups of Socialists in

Europe took during the time of national peril and stress. Those Socialists in Europe who were loyal to their respective governments, who joined in coalition cabinets, and who stood by their respective countries during the war are expressly eliminated from the category of uncompromising Socialists. The Bolsheviki of Russia, the Spartacides and Independent groups in Germany, and the Socialist Party in America are the outstanding exponents of this uncompromising attitude so repeatedly referred to in the declarations, manifestoes and official pronouncements of the Socialist Party of America since 1914.

The effort made by the defense, throughout the inquiry and repeated in the brief submitted to the Committee to qualify and minimize the demonstrated affiliation of the Socialist Party of America with the Moscow Internationale controlled by Lenine, Trotzky and their director of propaganda, Zinoviev, the radical Swiss Socialist, Fritz Platten, and the premier of the Ukrainian Communist Government, Rakowsky (p. 1475), only tends to emphasize the importance of this connection.

Every official pronouncement of the party and the unofficial statements of its members can only be understood when this underlying affiliation is appreciated.

In the early part of last year James Oneal was sent to Europe by the Socialist Party of America and returned about the last of April.

On May 7, 1919, he made a report which was submitted in June, 1919, to the National Executive Committee of the Socialist Party. His visit to England closely followed the holding of the Moscow Congress at which the Third Internationale was established in March, 1919. It also followed the Berne Conference, which was rejected by the Socialist Party in America,

because it attempted to revive the Second Internationale, excluded the Russian Communists, included the patriotic Socialists so-called, and was not radical and revolutionary.

This report is of great importance because of its explanatory statement of the nature of the Third Internationale. It was before the members of the Socialist Party of America at the Emergency Convention held in Chicago in September, 1919, when the party decided to affiliate with the Moscow Internationale.

In order that the Committee have a clear understanding of this report, and inasmuch as an examination of it will indicate the extent to which the views of the party responded to the international situation as reported by Mr. Oneal, we deem it advisable at this place to copy the report in full, as follows:

“BROOKLYN, *May 7th*, 1919.

“Dear Comrade Germer:

“I am enclosing the story of my experience on arrival in England, which appeared in the Call. Owing to the police espionage I had to be very careful and I decided to wait until I returned before I wrote you or made any reports.

“I did not go to any other country for a number of reasons. First, the situation is still so unsettled in the other countries that in my judgment it will probably be a year before we can make any definite alliance with comrades abroad. The Italian comrades have refused to attend the Berne Conference, and when I was in London, news came that the Italian Party had also definitely withdrawn from the International Bureau. The Swiss comrades also refused to attend and I learned that there is no likelihood of them affiliating with the Berne crowd.

"The British Socialist Party, which corresponds to the Socialist Party in this country, had intended to send delegates, though not satisfied with all the elements that would attend at Berne. In the meantime, the Labor Party claimed a monopoly of choosing all delegates representing Great Britain. The Independent Labor and the British Socialist Party protested, and the latter announced its intention of ignoring the decision of the labor party, but could not elect its delegates in time. But as soon as the decision of the Berne Conference became known, the British Socialist Party comrades, if the members of the executive are to be relied upon, and I think they speak for the membership—decided that they would not care to affiliate with the Berne organization.

"In France the situation has not changed and owing to this fact, I questioned the advisability of going to Paris. Some of the French delegates formed a healthy 'left' in the Berne conference, and the tendency is in that direction in the French movement. Now that the war hysteria is passing the Chauvinists in the French movement are losing what standing they had and the whole movement will eventually plant itself on a sound international basis. May Day events will undoubtedly hasten this result.

"I could have stayed another week and attended a meeting of the commission of the Berne conference which was called to meet in Holland on April 24th. I could have claimed a seat in the commission, but in doing so I would have been morally bound to pay \$100 dues to the old International Bureau. I would not take that responsibility as it was in conflict with my judgment. The next

best thing was to write a statement of what had occurred in the United States, the activity of the social patriots who had left the party, how the party had been prosecuted, the complete collapse of the American Federation of Labor officialdom to imperialism and autocracy, and the position of the party regarding the League of Nations, war and internationalism. This I did and I gave copies to J. Ramsay MacDonald, of the Independent Labor Party, and to Comrade Inkpin, Secretary of the British Socialist Party. MacDonald attended the meeting of the Commission, and no doubt brought this statement to the attention of the members, and they know what the attitude of the American Party is. Whether it will help in eliminating the Chauvinist elements of the Berne organization I do not know, but it is certain they will gather no comfort from it. I regret that I did not make another copy of this statement to send on to you, but it will probably appear in the Call, the organ of the B. S. P. — that is, the English Call; it is not the New York Call — 'as Inkpin promised it would, and if I can get a copy of it I will send it on to you.

"There is the further fact that the Scheide-mann patriots were accepted at Berne, a fact, of course, which we knew before I left this country. They correspond to the Social patriots in the allied countries and there is little difference between them except that they represent the bourgeoisie classes of their respective countries and are in conflict with each other.

"A large part of Central and Eastern Europe is still in a state of turmoil and it will be many months and possibly a year or two before any

definitely established party group will be formed that will have time to consider the founding of a new Internationale.

"While in London I secured some information regarding the Communist Congress held in Moscow. It had to be called in an atmosphere of secrecy if delegates in other countries were to attend and a number of delegates were arrested while on their way to the Congress. Despite opposition 32 delegates were present representing the following fourteen countries: Germany, Russia, Hungary, Sweden, Norway, Switzerland, America, Bulgaria, Rumania, Poland, Finland, Ukraine, Esthonia and Armenia. The Berne Conference had 100 delegates, representing 25 countries, but the delegates did not have the same difficulties to face that the Moscow delegates did.

"Fifteen other organizations were represented at Moscow with a voice but no vote. These included representatives of Czech, South Slav (Jugo Slav), British and French Communist groups, Dutch Social Democratic Party, Socialist Propaganda League of the United States, Swiss Communist group and similar groups in Turkestan, Turkey, Georgia, Persia, China and Korea. These representatives were probably comrades who were marooned in Russia and were accepted as fraternal delegates, but unable to speak authoritatively for their organization.

"An article in the central organ of the Soviets 'Izvestiya' refers coolly to the commission elected by the Berne Conference to go to Russia and investigate the Soviet regime. An extract from it undoubtedly reflects the view of the Moscow Congress. I quote:

“ ‘The establishment of the Communist International, which places itself in opposition to the international of opportunists and social traitors, has now confronted all the hesitating elements in the Socialist movement who have not yet sold their principles to the imperialist bourgeoisie with the option either of joining the advance guard of the proletariat in its fight for the Social Revolution, or of going over to the league of capitalists struggling for social reaction. There is no longer a third way. The Social Revolution is knocking at the door of the Old World. With the establishment of the Third Internationale the proletariat has reached the very gates of the Socialist era and will know how to open them, in spite of all the obstacles which have been accumulated in its way by the will of the ruling class and the treachery of its former leaders.’

“ ‘The Moscow Congress resolved to take over the work of the Zimmerwald and Kienthal groups after a report by Balabanoff, secretary of the Zimmerwald International Socialist Committee, in which he was joined by Lenine, Trotsky, Zinoviev, Rakowsky and Platten as members of the Zimmerwald Association.

“ ‘On the matter of organization I quote the following decision of the Moscow Congress:

“ ‘In order to expedite the commencement of activity of the new International the Congress at once elects the necessary organs with the provision that the final constitution of the Communist International will be submitted by the Bureau of the next Congress. The direction of the Communist International is entrusted to an Executive Committee consisting of one representative from the

Communist parties of the more important countries. The parties in Russia, Germany, German-Austria, Hungary, the Balkan Federation, Switzerland and Sweden are to send their delegates to the first Executive Committee without delay. Parties from other countries, which have declared their adhesion to the Communist International, before the second Congress, will also receive a seat on the Executive Committee. Pending the arrival of delegates from abroad, the comrades of the country in which the Executive Committee has its seat will undertake their work. The Executive Committee elects a Bureau of five members.'

"So far as I know there was unity at the Moscow Congress, which was quite in contrast with the Berne Conference. There is little doubt that in selecting the name 'Communist' the Moscow Congress did so for the same reason that the Marxists did in 1847, that is, to distinguish themselves from the many sects and groups going under the name of Socialist. The world war has resulted in the same confusion regarding the use of the word that was apparent in the days when various utopian sects of divergent views called themselves Socialist. The Moscow Congress certainly have in mind the ideals of Socialism, not the concept of communism of wealth which has characterized many religious sects. Its membership is made up of all the elements of the Socialist movement that oppose war and militarism, relies upon the class struggle to chart the course of the movement and keeps in mind the fact that the real struggle in the modern world is one between the workers of all countries as against the ruling classes of all countries.

"In conclusion will state that I could have gone

to other countries and probably have acquired more information, but learning what I did in London, I felt that I could not justify the expenditure of a few more hundred dollars for what additional information I might have secured. There was the additional consideration that if I stayed longer I had no assurance of getting passage back before June and perhaps later. I would have, therefore, piled up a large expense which would have hardly been compensated by any additional information I might have secured.

"My impression is that as the work of the Paris Peace Conference becomes better known, the dispelling illusions that the diplomats might be persuaded to make a 'people's peace,' illusions, strange to say, many who called themselves Socialists apparently believed, the drift away from the Berne Conference will become pronounced and this survival of the old International will disappear. There were some revolutionary elements at the Berne Conference who hoped that they could swing it to adopt declarations that would be a challenge to the Paris diplomats. A statement made at the Berne Conference by Lorient of France, for example, was read at the Moscow Congress and was heartily cheered. I was unable to get the text of this statement, but it is evident that there were delegates at Berne, though in the minority, who would be acceptable to Moscow. The Irish delegation was also of the same type.

"Then there are elements like the I. L. P. of Great Britain who from the beginning of the war maintained a critical attitude toward their own government and suffered persecution for it. Their offices were raided, their literature confiscated and

many of their members served terms of imprisonment. They have occupied a center position, but they will inevitably be driven to a course that will bring them to hearty support of a genuine International pledged to International solidarity of the workers and against imperialist wars. Their fault has been hesitation to draw logical conclusions from facts which they repeatedly brought to the attention of their own membership and the workers in general. Events are dispelling their illusions as they admitted to me when I talked with them.

"The International was the work of years and it will require time to rebuild it on a sound foundation. The process of getting together is now under way and will proceed more rapidly as the wounds of the war are healed. Whether the party desires to take any immediate action regarding the International upon the basis of our knowledge is for the party itself to determine.

"(Signed) JAMES ONEAL."

(pp. 2019-2024.)

The intimate connection between Zimmerwald and Moscow is shown in the fact that the report of the work of the Zimmerwald and Kienthal groups is made by Lenine, Trotzky, Zinowiev, Rakovsky and Platten who are the designers of the Moscow Manifesto. (Angelica Balabanoff is only the Translator-Secretary of the Zimmerwald Association — M. C.)

The membership of the Moscow Congress as explained by Oneal, "is made up of all the elements of the Socialist movement that opposed war and militarism, relies upon the class struggle to chart the course of the movement and keeps in mind the fact that the real

*struggle in the modern world is one between the workers of all countries against the ruling classes of all countries."*\*

From the Moscow Congress was issued the manifesto adopted March 26, 1919, signed by Rakovsky, Lenine, Zinoviev, Trotzky and Platten addressed to "The Proletariat of all Lands," published under the title of the "Manifesto of the Communist International" characterized by the Literature Department of the Socialist Party (p. 278), by which it was distributed, as "undoubtedly the greatest declaration ever issued from any working class tribunal since the Communist Manifesto of Marx and Engels," and identified by Assemblyman Waldman as the first official document of the Communist Internationale which is the same Internationale that is referred to in the minority report to the Socialist party as the Third Internationale (p. 1809).

The anti-national character of this new movement, with which the **Socialist Party** of America has allied itself is evident in the following differentiation between the Second and Third Internationale:

*"During this period" — the period of the Second Internationale — "the center of gravity of the labor movement rested entirely on national grounds confirming itself within the realm of national parliamentarism to the narrow compass of national states and national industries" (p. 289).\**

The purpose of the Third Internationale as distinguished from the First and Second which preceded it, is thus declared:

*"As the First Internationale foresaw the future development and pointed the way; as the Second Internationale gathered together and organized*

\*Italics ours.

millions of the proletariat, so the Third Internationale is the Internationale of open mass action, of the revolutionary realization, the Internationale of Deeds. Socialistic criticism has sufficiently stigmatized the bourgeois world order. The task of the International Communist Party is now to overthrow this structure and to erect in its place the structure of the Socialist world order. We urge the workingmen and women of all countries to unite under the Communist banner, the emblem under which the first great victories have already been won." (p. 290.)

Not only has the Party by its action at the Emergency National Convention at Chicago in September, 1919, adopted this principle and program, but these Assemblymen-elect, their instructors and leaders have made public utterances whose plain and unmistakable meaning shows that they are in full accord and sympathy with the program and principles enunciated in this **Moscow Manifesto**.

Our interest in this pronouncement of the Third Internationale is not abstract. These provisions have a concrete meaning to this country and we are interested in the fact that the Socialist Party of America, by referendum, has affiliated with and become part of the Communist Internationale at Moscow, for the reason that that Congress has unequivocally declared its purpose to be the overthrow of all existing governments, our own included, and its aim and only object to establish in all countries, the United States included, a dictatorship of the proletariat.

The Manifesto concludes as follows:

"Proletarians of all lands! In the war against imperialistic barbarity, against the monarchy,

against the privileged classes, against the bourgeois state and bourgeois property, against all forms and varieties of social and national oppression — Unite!

“Under the standard of the Workingmen’s Councils, under the banner of the Third Internationale, in the revolutionary struggle for power and the dictatorship of the proletariat, proletarians of all countries—Unite!” (pp. 290–291).

This brings us to what may be called the national aspect, so far as the United States is concerned, of the International program of the Third or Moscow Internationale, with which the Socialist Party of America is now affiliated.

(B) *The Socialist Party of America, by virtue of its affiliation with the Third or Moscow Internationale is committed to the establishment in this country of a “dictatorship of the proletariat.”*

An explanation of the expression “dictatorship of the proletariat” involves a brief consideration of the existing government in Russia, which is the conspicuous example of such dictatorship. Such consideration, moreover, is of importance since the persons and parties by whom that government was established are those who with similar elements control the Third or Moscow Internationale.

The genesis of the government, known as the Russian Socialist Federated Soviet Republic, or at least the first appearance of the underlying theory of that government, is to be found in the dispute in the Social Democratic Labor Party of Russia in the years 1902 to 1904, out of which dispute came the terms “Bolsheviki” and “Mensheviki.”

"'Bolshevik' in Russian means a member or adherent of the majority. This name takes its origin from the Russian Social Democratic Convention, which was held at Stockholm in 1903. The delegates of the convention divided on the question as to who could be considered as a member of the Socialist Party in Russia. Lenine came out for very strict control by the Central Committee of the Party. Lenine's formula was that the hands of the Central Committee should be able to reach every individual member of the Party. Martoff was against such exaggerated control and against such forceful centralization. The majority of the convention agreed with Lenine and the majority was named 'Bolsheviki' and the minority 'Mensheviki.' The name, however, remained afterwards when Lenine with his adherents were left in the minority and Martoff with his followers won over to their side the majority.

"The meaning of the diversity in the Russian Social Democratic Party, which was called out on account of the mentioned organization question, developed gradually, and two distinctly outspoken opposing points relating to the problems of the Russian revolution in general and how the revolution must be prepared and conducted. The meaning of the diversity sharpened during the first Russian revolution in 1905 and became still sharper after the first Russian revolution was subdued.

"The Bolsheviki had the majority but one; that was, as already stated, at the Stockholm convention. Afterwards they were always in the minority, and when the revolution broke out in Russia, in March, 1917, the Bolsheviki played a

most insignificant role, the leading role having been played by the socialist revolutionaries and the Mensheviki." (p. 215.)

Lenine left Russia in 1905, at the time of the revolution succeeding the Russo-Japanese War and the disasters in Manchuria. In October of that same year, as a sop to the popular demand, there was organized in Russia what was called the Duma, which was not a legislative, nor administrative, nor executive body, but apparently had functions of a somewhat ambiguous character limited to condemning or criticizing, or suggesting changes or modifications in the acts of the Czarist cabinet.

The revolution of March, 1917, when the Czar was deposed, found Lenine an exile from Russia. He had never been disturbed by either the German or Austrian governments from the time when he left Russia in 1905 until 1917, although both of these governments were constantly returning revolutionists to Russia in violation of international law.

When, in the spring of 1917, he returned to Russia from Switzerland, through the assistance of the German government, in a car furnished by them, on a train run by them, he found that comparatively speaking there were five parties that had theretofore and just prior to that time existed in the political life of his country and had been represented in the last Duma before the revolution.

There were, on the extreme right those known as Reactionaries, the men who were of the opinion that the Duma was an unnecessary concession to popular participation in government, and were satisfied with the regime of the Czar, as it existed before the inception of the Duma.

Next to the Reactionaries were the Octobrists, who

took the name from the fact that they adhered to the Duma, established in *October*, 1905, and were satisfied with the character of the institution as then established.

In the centre were the Constitutional Democrats, popularly known as the Cadets, from the initial letters of the two words constituting their name. They were political reformists who desired in Russia a form of government based and modeled largely upon the lines of the constitutional government of England. Milliukoff was of this group.

Next, and on the left were the Popular Socialists, to whom Lee referred as Trudoviki, in which party Kerensky belonged.

On the extreme left were the groups consisting both of Bolsheviks and Mensheviks, who insisted upon the triumph of the communistic principle.

Lenine, when he returned to Russia, most naturally allied himself with the last. The first two, Reactionaries and Octobrists, went out of existence with the revolution, there was no place in the new scheme of things for them, and the struggle for power from that time forward was between the Constitutional Democrats, the Social Democrats, and the Communists. The important issue before the people of Russia, then one of the belligerent nations, in the spring of 1917, was their attitude toward the war; and with respect to this, Lenine and Trotzky and their adherents, upon obtaining control of the government, signed with Germany the Treaty of Brest-Litovsk, and by this act released in the spring of 1918 the German army that had theretofore been occupying the Eastern front, and made them available for operations upon the Western front, at a time when the International Allied War Council was sending frantic appeals to the United States for the greatest number of men that could be furnished.

There is some confusion as to the manner in which **Lenine** obtained control of this government between the revolution in the spring of 1917, and the revolution of November, 1917, when the Kerensky government was deposed, and the Soviet government was set up.

It seems that the Constituent Assembly was composed of representatives of whom the Bolsheviki constituted only a 40 per cent. minority; but **Lenine** had behind him an active and vigorous, as well as radical element; and they were able by force, violence, fraud, if you will, or by peaceful, parliamentary, legal and innocuous methods, if you like, to establish their supremacy. Once having established their supremacy, they determined to maintain and continue it, and for that purpose they drew the remarkable document that is known as the Soviet Constitution.

This Constitution is based upon three underlying conceptions; one is that which is expressed in the phrase heard so often throughout these proceedings, "The Class Struggle"; the second is the phrase likewise repeated and reiterated time and again through this record, "The Dictatorship of the Proletariat"; and the third seems to be an utter negation of every principle of right and wrong.

The class struggle is resolved, or ended, by placing all power in the hands of the proletariat, disfranchising every one who is not engaged in so-called useful work. and even those who while so engaged also exploit the labor of another or others, and terminating the private ownership of land and all the instruments of production and distribution.

The maintenance of the existing government is secured by disarming every element of the population except the proletariat, classifying and destroying as counter-revolutionists all opposition political parties,

subsidizing the willing adherents to the Lenine regime and coercing into submission by process of starvation and other violent methods those who withhold their support.

The dictatorship of the proletariat is perpetuated by an ingenious system of representation in the various Soviets and the all-Russian Soviet Congress. While there is universal suffrage of all workers, there is a significant disparity of representation between the peasant proprietors who constitute 80 per cent. of the population of Russia and the urban proletariat. In the all-Russian Soviet Congress the representation is one to every 25,000 electors in the city and one to every 125,000 inhabitants in the country.

While it is true that in the one instance it is the electors who are entitled to representation and in the other instance it is the inhabitants who are so entitled, this cannot account for the disparity in representation since all are electors who are of the age of 18 years and over, male and female. The attempted explanation made by one of the counsel for these five members that it was easy to determine who were electors in a city but impossible to determine who were electors in the country is of course an absurdity, because with an electorate that is composed of males and females of the age of 18 years and upwards, certainly he who counts the inhabitants can by the simplest sort of an inquiry ascertain whether they are of the age of 18 years or over.

The same ratio is continued as the basis of representation in the local Soviets and throughout the whole system of government, one elector in the cities has five times as much political power as an inhabitant in the country. There can be no other explanation of this disparity than the perpetuation of the proletarian domination.

As bearing upon the attitude of this government toward human rights and obligations, there is a complete muzzling of the press, confiscation of all church property and the disfranchisement of all ministers of religion. Religious instruction may not be given in any school, public or private, when there is instruction in general subjects, and the law with relation to divorce requires the judge to grant an annulment of marriage where both parties consent to it, and in the event that only one party applies, it is his duty to grant such annulment at the instance of such party after notice to the other and identification of the applying party as the husband or wife of the other. This is divorce *in invitum*.

The Bolshevik political machine is built exclusively on the urban proletariat, and ultimate power, by a series of removes from the people, is finally placed in the hands of a centralized authority, thus accomplishing in government the very idea that distinguished the Bolsheviks from the Mensheviks when the division between them occurred in 1903. The process is as follows: The All-Russian Congress of Soviets, which is hardly more than a mere duma, chooses the All-Russian Central Executive Committee to the number of not more than 200 members (Exhibit 41, p. 146, sec. 28). The Central Executive Committee is the legislative, administrative and controlling organ of the government. (*Ibid.*, secs. 31-34.) The Central Executive Committee appoints the Council of Peoples' Commissars, which is intrusted with the general management of the affairs of the government (*Ibid.*, p. 147, secs. 35, 37). There are seventeen People's Commissars (*Ibid.*, sec. 43). The real rulers of Russia are thus three removes from the people.

Our reason for making this explanation of the exist-

ing Russian government and manner of its establishment is in order that the Committee may have a fair understanding of what is meant by the phrase "dictatorship of the proletariat," and how it is intended to maintain and perpetuate it, because it is this phrase that is constantly met with in the Communist Internationale constituting the guiding constitution and basis of organization, fundamental and organic law of the new Internationale, to which the Socialist Party of America has pledged its support, if you like, or declared itself in solidarity with, if you will.

There are two phases, therefore, to this Internationale program of the Socialist Party of America. One phase is that to which we have directed your attention at the outset of this discussion, involving the Socialist Party of America, in common concern with the other radical revolutionary groups of the world, to refuse its support to and obstruct and resist this government in time of crisis and national peril.

The other is the national, or domestic, program of the same international movement, whose character we have just described.

This national or domestic program is outlined in the Moscow Communist Manifesto which, in refreshing contrast to the attempt so frequently made throughout this trial to give new and unusual meanings to old and easily understood words, speaks, as its introduction says, "the plain clear language of the revolutionary Communistic proletariat," and "will assist the Socialist movement everywhere into the path of uncompromising revolutionary action that alone can usher in the triumph of international Socialism" (p. 280).

The Manifesto introduces its international program in the following paragraph:

"We Communists, representatives of the revolutionary proletariat of the different countries of

Europe, America and Asia, assembled in Soviet Moscow, feel and consider ourselves followers and fulfillers of the program proclaimed seventy-two years ago. It is our task now to sum up the practical revolutionary expense" — probably "experience" — "of the working class to cleanse the movement of its admixtures of opportunism and social patriotism, and to gather together the forces of all true revolutionary proletarian parties in order to further and hasten the complete victory of the Communist revolution."

It advocates radical methods only. Its language is as follows:

"The opportunists who before the war exhorted the workers in the name of the gradual transition into Socialism, to be temperate; who during the war asked for submission in the name of Burgfrieden" — domestic peace — "and defense of the Fatherland, now again demand of the workers self-abnegation to overcome the terrible consequences of the war. If this preaching were listened to by the workers, capitalism would build out of the bones of several generations a new and still more formidable structure leading to a new and inevitable world war. Fortunately for humanity this is no longer possible. \* \* \*"

And again:

"Only the proletarian dictatorship which recognizes neither inherited privileges nor rights of profit, but which arises from the needs of the starving masses, can shorten the period of the present crisis; and for this purpose it mobilizes all materials and forces, introduces a universal duty of labor, establishes a regime of industrial discipline, this way to heal in the course of a few

years the open wounds caused by the war and also to raise humanity to a new undreamed of height."

That parliamentary methods are not to be employed in establishing this proletarian dictatorship is made as plain as a pikestaff by the following paragraph, which is of transcending importance:

"If the finance oligarchy considers it advantageous to veil its deeds of violence behind parliamentary vote then the bourgeois state has at its command in order to gain its ends all the traditions and attainments of former centuries of upper class rule multiplied by the wenders of capitalistic technique; lies, demagogism, persecution, slander, bribery, calumny and terror. To demand of the proletariat in the final life and death struggle with capitalism that it should follow lamb-like the demands of bourgeois democracy"—(and it may be said in explanation of this phrase that every democracy is, in the view of those who accept the principles of radical revolutionary Socialism, a bourgeois democracy) — "would be the same as to ask a man who is defending his life against robbers to follow the artificial rules of a French duel that have been set by his enemy but not followed by him.

"In an empire of destruction where not only the means of production and transportation, but also the institutions of political democracy represent bloody ruins, the proletariat must create its own forms to serve above all as a bond of unity for the working class, and to enable it to accomplish a revolutionary intervention in the further development of mankind. Such apparatus is represented in the workmen's councils." (p. 286.)

We now come to the purpose plainly announced and method clearly defined by which the dictatorship of the proletariat is to be established the world over.

An *imperium in imperio* is to be created which shall destroy the government by means foreign to, independent of and inconsistent with those provided by our constitutional and parliamentary form of government. We refer to the Soviets or Councils.

The program is as follows:

"The proletariat created a new institution which embraces the entire working class without distinction of vocation or political maturity, an elastic form of organization capable of continually renewing itself, expanding, and of drawing into itself ever new elements, ready to open its doors to the working groups of city and village which are near to the proletariat.

"This indispensable autonomous" (the idea of a self-functioning extra-governmental organization is here plainly expressed) "organization of the working class in the present struggle and in the future conquests of different lands, tests the proletariat and presents the greatest inspiration and the mightiest weapon of the proletariat of our time (p. 287).

"Whenever the masses are awakened to consciousness, workers, soldiers and peasants' councils will be formed. To fortify these councils, to increase their authority, to oppose them to the state apparatus of the bourgeoisie is now the chief task of the class conscious and honest workers of all countries. By means of these councils the working class can counteract that disorganization which has been brought into it by the infernal anguish of the war, by hunger, by the violent deeds

of the possessive classes and by the betrayal of their former leaders" (pp. 287-288).

Then follows this statement of what will be accomplished by these councils so organized and created for these purposes:

"By means of these councils the working classes will gain power in all countries most easily and most certainly, when these councils gain the support of the majority of the laboring population. By means of these councils the working class once attaining power will control all the fields of economic and cultural life as in the case of Russia at the present time" (p. 288).

It must be remembered that though the chief counsel who is also the chief witness of the defense has declared, for the purpose of this trial, that he does not favor the Soviet form of government for this country, his party has accepted the Internationale of which this document is both the constitution and statement of program by which the purposes of this Internationale are to be internationally accomplished, and despite the testimony given by those of the five Assemblymen who took the stand in their own behalf as well as by their other witnesses, that they do not advocate a Soviet regime in the United States, these interested denials can have no weight in view of the policy of the party in affiliating with the Third Internationale. Moreover, other leaders are in favor of commencing with the program at once.

The night following the termination of hostilities, at the Park View Palace, 110th Street and Fifth Avenue, Prof. Scott Nearing, formerly of the University of Pennsylvania, now of the Rand School

and a colleague there of Mr. Claessens, made a speech in which he said:

"So while we rejoice that the Russian revolutionists are breaking economic chains; while we send our good wishes and cheer to the German revolutionists as they throw off autocracy and set up a government of the people, let us not forget that expressions of good cheer and messages of encouragement, are not the things that the Russian and German workers want from us. They want from us a workers' and soldiers' council in New York City. They want from us a workers' and soldiers' government in the United States. When we have an established government, we will have made good our claim to brotherhood and comradeship with the workers of Russia and Germany" (pp. 1459-1470).

Similar views were expressed by Alexander Trachtenberg in the speech which he made at Park View Palace on November 7, 1919, at the celebration of the Second Anniversary of the Russian Soviet Republic (p. 228), in the speech of Claessens made upon the same occasion, and in the speech of Waldman, made on the same evening, at a similar celebration, held at Brownsville Labor Lyceum, Sackett street, Brooklyn, at which Solomon was the chairman, and which was also addressed by James Oneal, the observer of and reporter on International Plans and Purposes.

We continue with the analysis of the Moscow Communist Manifesto.

While the *imperium in imperio* is being created the disintegration of the existing state is at the same time to be accomplished. The terms and expressions employed in the statement of this purpose, while strange

and foreign to the ears of Americans, have been employed time and again throughout these proceedings, constitute the vocabulary of International Socialism and are thoroughly understood by its advocates and adherents.

"The collapse of the Imperialistic state and of the imperialistic system and the disintegration of the government are to be concomitant with the organization of the proletarian regime.

"The imperialistic war which pitted nation against nation has passed and is passing into the civil war which lines up class against class.

"The outcry of the bourgeois world against the civil war and the red terror is the most colossal hypocrisy of which the history of political struggles can boast. There would be no civil war if the exploiters who have carried mankind to the very brink of ruin had not prevented every forward step of the laboring masses, if they had not instigated plots and murders and called to their aid armed help from outside to maintain or restore the predatory privileges. Civil war is forced upon the laboring classes by their arch-enemies. The working class must answer blow for blow, if it will not renounce its own object and its own future which is at the same time the future of all humanity.

"The Communist parties, far from conjuring up civil war artificially, rather strive to shorten its duration as much as possible—in case it has become an iron necessity—to minimize the number of its victims, and above all to secure victory for the proletariat. *This makes necessary the disarming of the bourgeoisie at the proper time, the arming of the laborers, and the formation of a communist army is the protector of the rule of the*

*proletariat and the inviolability of the social structure. Such is the Red Army of Soviet Russia which arose to protect the achievements of the working class against every assault from within or without. The Soviet Army is inseparable from the Soviet State \* \* \**" (p. 288-289).\*

It is necessary to dwell at this length upon the Moscow pronouncement because the Socialist Party of America in adopting the principles and program therein announced has clearly and conclusively proven that it is not a political party, but a revolutionary organization committed to the destruction of our government and that the five Assemblymen-elect as members and active and insistent exponents thereof, present themselves at the door of this chamber fully determined to play their part in the destruction of this State.

In the governing rules of the Communist Internationale we are informed that:

*"This Internationale, which subordinates the so-called national interests to the interests of the International revolution,\* will personify the mutual help of the proletariat of the different countries, for without economic and other mutual helpfulness the proletariat will not be able to organize the new Society"* (p. 297).

These rules end with the following exclamation:

*"Long Live the International Republic of the Proletarian Councils!"* (p. 298).

In the article written by Morris Hillquit to the New York Call on May 21, 1919, before the Oneal report was distributed among the members of the Executive Committee, before Referendum "D" had

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\*Italics ours.

been adopted by an overwhelming vote and before the Socialist Party of America had at its Chicago Convention announced its solidarity and affiliation with Moscow, the purpose and scope of the new Internationale were plainly stated by Mr. Hillquit who at that time was opposing the theory that the foundations of the Third Internationale of Socialism had been laid either at Berne or in Moscow. His statement is as follows:

"The Communist Congress at Moscow made the mistake of attempting a sort of *dictatorship of the Russian proletariat in the Socialist Internationale\** and was conspicuously inept and unhappy in the choice of certain allies and in the exclusion of others" (pp. 1262-1263).

Despite this criticism, however, the party has taken an advanced radical revolutionary stand in a definite way, the purpose of which cannot be mistaken, and now stands affiliated with what Mr. Hillquit properly described as the "*dictatorship of the Russian proletariat in the Socialist Internationale.*"

The minority report sent out by the Chicago Convention of September, 1919, adopted by an overwhelming vote of the members of the party, denounced the Berne conference and declared that:

"Any international to be effective in this crisis must contain only those elements who take their stand unreservedly upon the basis of the class struggle and who by their deeds demonstrate that their adherence to this principle is not mere lip loyalty" (p. 326).

The exclusion of certain groups by the Moscow convention declared in May, 1919, by Mr. Hillquit to be

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\* Italics ours.

"conspicuously inept" was in September, 1919, approved by the party both in its manifesto, unanimously adopted, and in the minority report subsequently adopted by referendum vote. In the former, pro-war Socialists were repudiated in the following language:

"Recognizing this crucial situation, at home and abroad the Socialist Party of the United States at its first national convention after the war, squarely takes its position with the uncompromising section of the International Socialist movement. We unreservedly reject the policy of those Socialists who support \* their belligerent capitalist governments on the plea of 'national defense' and who entered into demoralizing compacts for so-called civil peace with the exploiters of labor during the war and continued a political alliance with them after the war" (p. 305).

In like manner the Minority Report declares that:

"We consider that a new international which contains those groups which contributed to the downfall of our former organization must be so weak in its Socialist policy as to be useless" (p. 326).

The Chicago Manifesto declares its "solidarity with" or pledges its support to "the revolutionary workers of Russia in the support of the government of their Soviets, with the radical Socialists of Germany, Austria, Hungary, in their efforts to establish working-class rule in their respective countries and with those Socialist organizations in England, France, Italy and other countries who during the war, as after the war,

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\* The phrase is "who support," not "who supported," which might mean during the war. It is expressive of a continuing attitude after the war.

have remained true to the principles of uncompromising international Socialism " (p. 305).

This manifesto of the Socialist Party of America ends with the ejaculation " Long Live the International Socialist Revolution, the only hope of the suffering world!" (p. 307).

The choice of allies by the Moscow Congress declared inept in May, 1919, by Mr. Hillquit is demanded in referendum "D" and is thus approved in the Minority Report by the Socialist Party of America in the following language:

" The Socialist Party of the United States in principle and in its past history has always stood with those elements of other countries that remained true to their principles. The manifestoes adopted in National Convention at St. Louis (1917) and Chicago (1919) as well as Referendum "D" 1919, unequivocally affirmed this stand.

" These parties, the majority parties of Russia, Italy, Switzerland, Norway, Bulgaria, Serbia, Greece and growing minorities in every land are uniting on the basis of the preliminary convocation at Moscow of the Third Internationale. As in the past so in this extreme crisis we must take our stand with them " (pp. 326-7.).

On October 28, 1919, commenting upon a letter dated September 27, 1919, signed by Haase, Crispian and Stoerker of the Central Committee of the Independent Social Democratic Party of Germany (a radical group, though not so radical as the Spartacides whose inclusion in the New Internationale was through Referendum "D" demanded by the party), sent to Mr. Hillquit for transmission to the National Executive Committee of the Socialist Party of America, Mr. Hillquit as reported by the New York Call of that date said:

"The interesting thing about it is that the independents take a position very much like that of the Socialist Party of the United States. With this letter they also sent a copy of the program adopted by them at their last convention. They place themselves in the platform squarely with the radical revolutionary wing of the international Socialist movement and in very clear opposition to the majority Socialists of Germany.

"They advocate the establishment of workers' councils or Soviets as permanent institutions, and as part of the governmental machinery of Germany. They advocate the immediate socialization of the most important industries and oppose cooperation with bourgeois elements in the government.

"Their position on the Socialist Internationale is very similar to that of the Socialist Party in America in that they, too, seek to exclude the so-called social patriotic elements of the Socialist movement in all countries and to include the Bolshevik Socialists of Russia" (p. 2029).

There can be no other meaning of the phrase, "The radical revolutionary wing of the International Socialist movement," of which the Socialist Party of the United States is by this statement conceded to be a component part, than that it describes the purposes and methods of the anti-American, non-political, anti-patriotic, anti-national, anti-legal, extra-parliamentary international movement, whose national program in this country is to be fashioned upon the plan of the Soviet regime of Russia, inspired by its originator and dictator, Nicolai Lenine, and that the Socialist Party of the United States proposes to carry into effect its

purposes in this country as the purposes and objects were accomplished in Russia.

At this point we submit that the overwhelming evidence in this case has proved beyond reasonable doubt the acceptance by the Socialist Party of America of, and adherence to, the International program of the Third or Moscow Internationale, subordinating national allegiance at all times to Internationalism and even denying national allegiance in times of national crisis and emergency, and that so far as the domestic program of the same internationale is concerned, there is the same sufficiency of evidence to establish the proposition that it is intended to impose this domestic program on the United States.

The Socialist Party of America is therefore neither a political Party nor American. An organization that repudiates and disavows for and on behalf of its members, and whose members concur in such repudiation and disavowal, any duty on the part of such members to support this government is certainly not a political party even though it employs the methods and machinery of our politics; for the very postulate of American politics, as of everything else that in any way pertains to American citizenship and the right of suffrage, is the acceptance of the duty of allegiance to the United States with its inseparable obligation to support and defend the United States.

The labored attempt in the brief filed on behalf of the Socialist Assemblymen to prove that the Socialist Party of America is not in affiliation with the Moscow or Third Internationale is merely additional evidence that such affiliation is not only incompatible with but repugnant to and a repudiation of the allegiance which each of these men owes to the United States.

It is said (*Brief for S. A.*, p. 55) that "there was

no representative of the American Socialist Party" at the Moscow conference. The proclamation calling the First Congress of the Communist Internationale (Ex-85, p. 458), under the caption "Attitude Towards Socialist Parties," in the list of those groups who should participate in the Congress with "the right to full membership in the Third Internationale" (*ibid.* 460) includes "the left elements of the Socialist Party of America (S. P.) especially that group which is represented by Debs and the Socialist Propaganda Association" (*id.* p. 461). Subsequent to this proclamation the Socialist Party of America at the Emergency Convention in Chicago in September, 1919, declared for Debs as the candidate of the party for President in 1920 (p. 1943), and Messrs. Hillquit, Lee, Branstetter, Waldman, Solomon, Claessens and every other witness interrogated on the point declared themselves unqualifiedly as favoring him for that position, because, they say, he is the embodiment of the principles of the Party and represents in his actions and utterances their own sentiments towards the government and the laws of this nation. The party as at present constituted, therefore, was invited to attend the Moscow Conference.

While the Party may not have been officially represented at the conference, its prior conduct and subsequent affiliation with the Internationale proves that it was there in spirit.

Next it is said that the Moscow manifesto and "Governing Rules" have never been "officially before the Socialist Party, and the Party has never expressed itself in any way with respect to them." (*Brief for S. A. p. 55.*)

The fact is, however, that the Moscow documents have been officially before the Socialist Party. The Literature Department of the Party in an official communication sent from the National Office of the Party in

Chicago to the Rochester Local of the Party announces "the publication of two vital documents in pamphlet form, namely, 'The Manifesto Communist International,' issued 1919 by the Soviets of Russia at Moscow to the Toiling Masses of the World. This is undoubtedly the greatest declaration ever issued from any working class tribunal since the Communist Manifesto of Marx and Engels. This retails for ten cents — price to Locals \$6.50 the hundred; the second is 'The Constitution World's First Socialist Republic,' in attractive red pamphlet form, to sell for five cents. Cost to Locals \$2.50 per hundred." (p. 278.)

In his letter to the New York Call of November 26, 1919, Alexander Trachtenberg writes:

"The various decisions of the Chicago Convention and especially the Manifesto adopted at the convention, proved beyond a doubt the spiritual adherence of our party to the principles enunciated at the Moscow International Conference. Anyone who has read carefully both the Moscow and the Chicago manifestoes, will note the similarity of ideas which underlie both of these documents. It is because of this that many of us who stood by the party during the recent controversy, have the right to brand the assault upon the party by some groups as criminal and as aiming to destroy an organization which remained true to the principles of the revolutionary class struggle" (p. 1255).

Moreover, "The Guiding Rules" of the Moscow manifesto were published in The New York Call, the daily Socialist organ in New York City, on June 24, 1919.

There can be no question, therefore, but that the Moscow manifesto was officially before the Socialist Party and before the members of the Party.

In the minority report adopted by referendum, the Party has declared, in the language of Trachtenberg, its spiritual adherence "to the *principles enunciated* \* at the Moscow International Conference" (p. 1255). This enunciation of principles was made in the Moscow Manifesto (pp. 1255, 1809).

It is next said that Mr. Hillquit had not read the Moscow documents "when he drafted the Manifesto adopted by the Socialist Party at Chicago in September, 1919" (*Brief for S. A.*, p. 55). The similarity of ideas which underlie both the Moscow and the Chicago manifestoes is apparent, however, to Trachtenberg and to anyone else who will read both documents, and Mr. Hillquit must have been in possession of some information regarding "the principles enunciated at the Moscow International Conference," else he could not on May 21, 1919, have characterized the work of the conference as "attempting a sort of dictatorship of the Russian proletariat in the Socialist Internationale" (p. 1262).

It is next asserted that the Chicago Convention voted against affiliation with the Moscow Internationale (*Brief for S. A.*, p. 57). This assertion, however, is so utterly false that it had to be tempered by the explanation that "the Socialist Party was not in fact pledged to affiliation with the Moscow Internationale *until after these hearings had commenced*" \* (*id.* p. 58). This pledge of affiliation was the result of the adoption of the minority resolution by the membership through a referendum which closed January 13, 1920 (*id.* p. 58).

The adoption of the minority report, however, was actually accomplished before January 13, 1920. It was only the tabulation of the vote that was then completed. It is undoubted that the majority of the

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\* Italics ours.

membership had voted in favor of the resolution long prior to that date.

Moreover, the adoption of the minority report related back to the convention which sent it out for action by the membership.

Finally, while the adoption of the minority report was a foregone conclusion, its actual adoption was really not essential to determine the character of the international affiliations of the organization in this country, for by "the adoption of the Zimmerwald program in 1915, the support of the Kienthal Manifesto in 1916, the adoption of the St. Louis resolution in 1917, the general position of the party and the sentiment of the rank and file throughout the last five years — the Socialist Party could not do anything else but ally itself with those Socialist groups who have, like itself, remained steadfast to the revolutionary and internationalist spirit of the Socialist movement." *Trachtenberg letter* (p. 1255).

The Moscow Congress, moreover, was dominated and controlled by the same men who constituted the members of the Zimmerwald Association and took over the work of the Zimmerwald and Kienthal groups, whose program and manifesto during the war the Socialist Party of America had adopted, for in his letter of May 7, 1919, to the Executive Committee, Oneal reported as follows:

"The Moscow Congress resolved to take over the work of the Zimmerwald and Kienthal groups after a report by Balabanoff, Secretary of the Zimmerwald International Socialist Committee, in which he was joined by Lenine, Trotzky, Zinovieff, Rakowsky and Platten as members of the Zimmerwald Association." (p. 2132).

Furthermore, in the manifesto which "was unanimously adopted" by the delegates attending the

Emergency Convention of the Socialist Party of America held in Chicago, September, 1919 (p. 300), the declaration with respect to international affiliation is as follows:

" \* \* \* the Socialist Party of the United States at its first national convention after the war, squarely takes its position with the uncompromising section of the International Socialist movement. We unreservedly reject the policy of those Socialists who support their belligerent capitalist governments on the plea of 'National Defense,' and who entered into demoralizing compacts for so-called civil peace with the exploiters of labor during the war and continued a political alliance with them after the war." (p. 305).

This manifesto unanimously adopted by the convention further declared its "solidarity with" or "pledged its support" to "the revolutionary workers of Russia in the support of the government of their Soviets, with the radical Socialists of Germany, Austria and Hungary in their efforts to establish working class rule in their countries, and with those Socialist organizations in England, France, Italy and other countries, who, during the war as after the war, have remained true to the principles of uncompromising international Socialism." (p. 305).

The Chicago manifesto ended with the following ejaculation:

"Long live the International Socialists Revolution, the only hope of the suffering world!" (p. 307).

Finally, even the majority report, which was not sufficiently definite as to international affiliation to suit the membership, itself repudiated the Berne conference as retrograde, declared that "in the reconstituted

Socialist Internationale only such organizations and parties should be given representation which declare their strict adherence by word and deed to the principle of the class struggle" (p. 327), and described the constituent elements of the new Internationale in language unmistakably identifying them with the groups that constitute the Moscow Internationale. This language is as follows:

"To such an Internationale must be invited the Communist parties of Russia and Germany, and those Socialist parties in all countries which subscribe to the principle of the class struggle. No party which participates in a government coalition with the parties of the bourgeoisie shall be invited.

"In such Congress our party should urge the reconstruction of world-wide organization of the Socialist proletariat upon closer and firmer lines than have prevailed in the past, to the end that the Revolutionary Proletarian forces of the world may at every critical moment be effectively mobilized for simultaneous and harmonious action." (p. 328).

The position of the Socialist Party of America, as a member of the Moscow Internationale, was consequently fixed and determined at the time these proceedings were begun, for as Trachtenberg wrote in his letter of November 26, 1919, "It belongs among those parties which have remained true to International Socialism and who alone have the right to build the edifice of the new Internationale." (p. 1256).

While, therefore, the ratification of the minority resolution is conclusive evidence of the Socialist Party's affiliation with Moscow, it is not correct to say, as does the brief for the Socialist Assemblymen, that the ratifi-

cation of said resolution is the one and only basis of such affiliation (*Brief for S. A.* p. 59).

The assertion that, although "the American Socialist Party has voted to join in the Moscow Internationale" it has not committed itself to "Russian Communist domination, program or methods" (*Brief for S. A.*, p. 61), is another instance of the labored attempt to explain away the consequences of the affiliation. The Socialist Party of America must accept the consequences which result from the nature of the affiliation, and it is futile for them to equivocate, in Mr. Hillquit's phrase, that they neither disavow nor accept "the program of the Moscow Internationale" (p. 1287). As American citizens their allegiance to the United States demands that they disavow it, and if they were loyal men their disavowal would be unhesitating and unqualified. As members of the Moscow Internationale, however, their membership establishes acceptance of it, and by virtue of that membership they have made their determination. It is their allegiance to the United States that they have disavowed and repudiated, and their allegiance to the Internationale that they have approved and accepted. This is the necessary consequence of their act, and inasmuch as we are concerned in this proceeding only with the question whether they have accepted the program of the Moscow Internationale, and thereby repudiated their allegiance to the United States, the assertion in bold-face type that they have not committed themselves "to Russian Communist domination, program or methods" and have neither disavowed nor accepted them is a complete and final admission of disloyalty. A loyal man does not hesitate or waver about disavowing an affiliation whose acceptance would demonstrate his disloyalty.

It is unnecessary to consider such further parts of the brief for the Socialist Assemblymen as are devoted to International Socialism, except to say that it is hardly conceivable that even in the minds of counsel for the five Assemblymen such other portions could have been supposed to have any relevancy to this issue.

We are now to consider the methods or tactics by which the Socialist Party of America hopes to accomplish its purposes.

**II. The Socialist Party of America is preparing and attempting to bring about a revolution in this country as part of the International Socialist revolution by the following unlawful methods:**

**First:** It has opposed and obstructed and continues to oppose and obstruct the government of the United States and of this State in all measures relating to the national and State defense. its purpose in so doing is manifest one: to weaken and leave defenseless the government of State and Nation against the attacks of foreign and domestic enemies, and thus deprive it of that right of self-preservation which is admittedly the first duty of governments.

**Second:** It advocates and incites the destruction of the existing government of the United States by illegal mass action.

**Third:** While professing to utilize political action, it constantly denies that existing evils or defects may be remedied by such action, and insists that such political action must be supplemented by violence and mass action, which it advocates, directly as well as by insinuation and suggestion.

**Fourth:** The political action of the party is responsive only to the dues-paying membership.

Those who are elected to office are bound to follow the dictates of such membership and their compliance is compelled by drastic and comprehensive provisions in the constitutions of the party.

Fifth: These methods and tactics are prescribed for the members of the party as an integral part of the party's principles and program by the international body already described. In the employment of each and all of these methods, the Socialist Party of America is in harmony and accord with the radical Revolutionary Socialists in all the countries of the world.

We now devote ourselves to the *first* proposition.

The Socialist Party's opposition to and obstruction of the government of the United States in all measures relating to national and State defense were conspicuous immediately after the sinking of the Lusitania in May, 1915, when it became apparent that America would eventually be forced into the war.

Immediately after the sinking of the Lusitania the National Committee of the Socialist Party at a meeting held in May, 1915, formulated a new section of the Constitution of the party which was later ratified in a referendum of the membership by a vote of 11,041 for, and 782 against, as follows:

*"Article 2, Section 7—Any member of the Socialist Party elected to an office who shall in any way vote to appropriate moneys for military or naval purposes or war, shall be expelled from the party."*

This attempt to weaken our country and render it defenseless and submissive to violence from within and without was not a negative one merely, for at the same meeting of the National Committee held in May, 1915, following the sinking of the Lusitania, a manifesto

was addressed by the Committee to the American people, the concluding paragraph of which is as follows:

“Let us proclaim in tones of unmistakable determination: ‘Not a worker’s arm shall be lifted for the slaying of a fellow worker of another country, nor a wheel turned for the production of man-killing implements or war supplies! Down with war! Forward to International peace and the worldwide solidarity of all workers!’”

In September, 1915, when Von Mackensen was crushing Serbia, when the western front was hopelessly deadlocked and the cause of the Allies was almost at its lowest, Lenine, Trotzky, Zinoviev, Rakowsky and Platten organized the Zimmerwald Conference or Congress, intended to become a new Internationale, to take advantage of the existing conditions in the various countries at war to bring about the international social revolution. The program, though Mr. Hillquit could not remember it, was admitted by Mr. Solomon to include the general strike (*p.* 1922) and the Socialist Party of America was immediately responsive to the suggestion.

On April 21, 1916, when the situation became critical as the result of the exchange of diplomatic notes with the German government over the use of submarines as a means of warfare, the national secretary of the Socialist Party of America met with the various translator-secretaries (who are the secretaries representing, under the constitution of the Socialist Party of America, the various foreign language federations and, under the constitution, have their offices in the national office of the party), and drew up a proclamation for dissemination in all foreign languages to the membership of the party. This manifesto closed with the following sentence:

“We suggest and appeal that the workers as a measure of self-defense and as an expression of

their power exert every effort to keep America free from the stain of a causeless war *even to the final and extreme step of a general strike and the consequent paralyzation of all industry.*"\*

In the year 1916, the Zimmerwald Conference reconvened at Kienthal, in Switzerland, and a manifesto similar to the Zimmerwald proclamation was issued and again the Socialist Party of America was responsive to the International program of Lenine and his associates. For the Presidential campaign of that year the Socialist Party of America prepared its party platform. The United States by the criminal program and acts of the Imperial German Government was being drawn nearer and nearer to the vortex of the terrible conflict. To render this country impotent to protect the national honor and defend the national integrity against persistent and continuing attacks multiplying to an overwhelming degree day by day, to leave it at the absolute mercy of a merciless and pitiless autocracy which flouted our very national existence, carried on its U-boat warfare within a few miles from our coast, directed its ambassadorial representative domiciled in our national capital to stir up industrial unrest among the workers in our factories and create war between ourselves and our southern neighbors, and in a thousand other ways sought to embroil us in domestic strife and foreign war, the Socialist Party of America to render us impotent under these circumstances and to make effective its national program in harmony with the international program of Lenine and his associates wrote into its Presidential platform the following language:

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\* Italics ours.

"Therefore, the Socialist Party stands opposed to military preparedness, to any appropriations of men or money for war or militarism, while control of such forces through the political state rests in the hands of the capitalist class. *The Socialist Party stands committed to the class war, and urges upon the workers in the mines and forests, on the railways and ships, in factories and fields, by refusing to mine the coal, to transport soldiers, to furnish food or other supplies for military purposes, and thus keep out of the hands of the ruling class the control of armed forces and economic power, necessary for aggression abroad and industrial despotism at home.*"\*

On April 6, 1917, the United States declared war against the Imperial German Government. On the following day, April 7, 1917, the Socialist Party of America met in national convention in the city of St. Louis, Mo., and continued in convention until April 14, 1917.

It proceeded to shape the policy of the party with respect to the war just declared. It adopted a war program which began as follows:

*"The Socialist Party of the United States in the present grave crisis solemnly reaffirms its allegiance to the principles of internationalism and working-class solidarity the world over \* and proclaims its unalterable opposition to the war just declared by the Government of the United States."*

The country, being then at war, it called upon the "workers of all countries to refuse support to their governments in their wars." This meant that the workers in the United States were to refuse support to

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\* Italics ours.

this government in the war. If this support had been denied the demand of the Presidential platform of 1916 would have been fulfilled. No coal would have been mined; not a wheel would have turned on a railroad; no troops would have been transported; no munitions would have been manufactured; no food would have been distributed; no supplies of any character would have been produced.

The nation would have been completely at the mercy of its enemies.

As we have already pointed out, the program repudiated and discredited the idea of national patriotism and denied the very idea of national allegiance. Its position on this subject was unmistakably defined in the following language:

“The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare. *As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity.*” \*

By this war program the Socialist Party of America, heeding the demand of International Socialism while its brethren in the majority party of Germany were assisting their government to wage war victoriously against the United States, sought in every way to obstruct and render us helpless and impotent.

Recognizing that if the United States were to be successful in the war, its man power both military and industrial, and all its resources, must be mobilized to make effective resistance to the gigantic military

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\*Italics ours.

machine which had erupted from the national boundaries of Germany in a vast military body maintained, munitioned and supplied by the militarily organized industries of the German Empire, and that a failure on the part of the industrial workers of our nation to sustain and support our military establishment meant the utter failure and defeat of the United States and the victory and success of Germany, in a word realizing to the fullest extent the purposes and consequences of their program, the Socialist Party announced its policy of obstruction and resistance in the following language:

“ \* \* \* The Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions. On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action:

“ 1. Continuous, active and public opposition to the war through demonstration, mass petitions and all other means within our power.

“ 2. Unyielding opposition to all proposed legislation for military or industrial conscription.

“ Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws for the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempts to raise money for payment of war expenses by taxing the necessities of life or issuing bonds which will put the burden upon future generations. We demand that the capitalist class which is responsible for the war pay its cost. Let those who kindle the fire furnish the fuel.”

In addition to the foregoing war program the party adopted a platform. In that platform it called "upon all workers to unite, to strike as they vote and to vote as they strike—all against the master class."

Only through this combination of our powers can we, said the party, establish the co-operative commonwealth (*p.* 461).

In its immediate program it incorporated the following political demands, among others:

"Resistance to conscription of life and labor.

"Repudiation of war debts" (*p.* 462).

This platform is still in force and effect (*pp.* 459, 463-464).

In the same convention of April, 1917, an exceedingly significant and altogether consistent step was taken in furtherance of the war program of the party.

Since 1912 the party had stood committed, under the provisions of article 2, section 6, of its National Constitution, against the practice of sabotage. That provision of the constitution was, in April, 1917—after the declaration of war—repealed. In view of the context, consisting of the war program with its pledge to use all means within the power of the members, with its demand for an even more vigorous prosecution of the class struggle, with its declaration that the only struggle which would justify the workers in taking up arms was not the national struggle but the class struggle,—taking all these things into account, the removal of restraint on the use of sabotage becomes significant with sinister meaning.

Sabotage is one of the most effective, if not the most effective, method of rendering industrial co-operation not only ineffectual, but impossible. It brings about that condition of national inefficiency and impotency to which the party was pledged to devote itself with

unremitting energy, and despite the labored and disingenuous explanations given on the witness stand for the repeal of the anti-sabotage provision, such repeal cannot be regarded as intended to accomplish any other purpose than to notify the members of the party that even the negative restraint imposed upon them in making effective their program of industrial action had been removed, and they need no longer consider themselves hampered thereby. It was a tacit invitation to commit sabotage.

It is wholly illogical to say that sabotage is individual as distinguished from mass action (*Brief for S. A.*, p. 41.) Individual action is action by an individual and mass action is action by a group or mass of individuals. Mass action is merely the total of individual action or non-action. A mass is made up of individuals and may employ sabotage, as well as any other method, for accomplishing its purpose. An invitation addressed to a group to employ sabotage is manifestly intended to induce mass action rather than the action of an individual.

The foregoing proceedings of the National Convention of April, 1917, were promulgated and made effective by the membership of the party. The war program was sent all over the United States for adoption by the various locals (p. 1377). The platform was likewise distributed for consideration of, and vote by, the locals (p. 1378). And the repeal of article 2, section 6 (Sabotage), being an amendment of the constitution, was similarly submitted to a referendum vote and adopted.

At this point some allusion should be made to the testimony with respect to the attitude of the party on the question of conscientious objection. The statement was made by Mr. Hillquit that Socialists were

not pacifists. All the declarations of the party itself indicate that in the class struggle, which they declare is the only struggle in which they are interested, arms may be taken up. That is not a declaration consonant with, or in conformity to, the attitude of a pacifist; but in this war they did attempt to make a claim that, by virtue of membership in the Socialist Party of America, they came under the category of conscientious objectors. Exemption blanks were prepared, in which the claim was set forth that "the Socialist Party of America was an organization or sect" — the words of the Selective Service Act itself are "religious sect or organization" — "well recognized on the 18th day of May, 1917" — the day on which the Selective Service Act became law — "whose creed forbade its members from participating in war."

Mr. Hillquit denied that any such exemption blank was authorized as an official act of the Socialist Party of America. The record shows, however, that one thousand of these blanks were printed and that the bill for them was rendered to the Socialist Party of America at its national office. The record does not show who prepared them, who ordered them nor whether the bill itself was ever paid by the Socialist Party of America, but there is correspondence between Mr. Kruse and Mr. Trachtenberg on the subject of the preparation of a form, or a compilation of utterances of the party, which might form the basis of a claim that the party itself was an organization whose creed forbade its members from participating in war (*pp.* 623-4).

It is significant, moreover, that in the case of one of these Socialist Assemblymen, Waldman, a claim for conscientious objection was made by him on the occasion when he was required to attend before his Local Board for the purpose of submitting to physical exam-

ination. In this respect it may be stated for the information of the Committee that under the first draft the Local Board sent notice to its registrants to attend before the Board for the purpose of being physically examined to ascertain whether they were physically qualified to render military service. At the same time the inquiry was also put to them whether they had any grounds for exemption and they there and then stated grounds for such exemption. That was the practice prescribed by the Rules and Regulations which were in effect before the adoption of the Selective Service Regulations on the 15th of November, 1917. The Act itself permitted those only to be accepted as conscientious objectors who belonged to a religious organization or sect, recognized as such on the 18th day of May, 1917, with a creed or set of principles then in existence, under the provisions of which members thereof were forbidden to participate in war. Mr. Waldman, although he admitted making claim for exemption, was unable to inform the Committee what were the nature of the grounds upon which he based that claim.

With the evidence before the Committee and it is presumed judicial notice will be taken of the statute of the United States upon the subject—the conclusion is inevitable that some statement was made of his reasons for such claim of conscientious objection at that time, and that claim must have been phrased in the language of the act—and fortified by such evidence as would be required to satisfy the statutory requirements. Inasmuch as he did not belong to any religious sect or organization having a set of well-recognized principles and creed on the 18th day of May, 1917, under which he could claim he was a conscientious objector, the inference is almost irresistible that he, in harmony with those who were to participate in

the use of the one thousand blanks that had been prepared and supplied to the National Committee in Chicago and in accordance with the intent to formulate a statement of the pronouncements of the party which would be made the basis of a claim of this character, made his claim upon these grounds.

The war attitude of the party drove out of its ranks those who retained any vestige of their allegiance to the United States. From this time forward the ranks of the Socialist Party of America began to be depleted to the extent of those who found that Socialism and Americanism were in violent hostility and antagonism and who, placing the interests of the United States above those of the international program of Socialism, found that they could not, consistently with their duty and allegiance as citizens of the United States, remain in the party. From this number, however, the five Socialist Assemblymen were conspicuously absent.

As Benson, the party's candidate for President in 1916, said:

"A few men in the party, who should have known better, have accepted and proclaimed the false doctrine that a workingman can have no country, and, therefore, that it is immaterial to him whether the country in which he lives, if it be at war, shall be defeated or not. Such men seem quite unconscious of the fact that this is the doctrine of Proudhon and Bakunin, the anarchists, rather than that of Marx, the Socialist.

"Marx believed that workingmen everywhere had a very real interest in the success of the North in our Civil War, and upon at least one occasion wrote to Lincoln congratulating him upon what he was doing to bring such a victory about.

"The present foreign-born leaders of the Ameri-

can Socialist Party, if they had lived during the Civil War, would doubtless have censured Marx for congratulating Lincoln.

"For these reasons I now take leave of the Socialist Party a year after I ceased to agree with it. It seemed to me that, having been at the head of the national ticket two years ago, it was particularly my duty to wait and see if the party would not right itself. It has not righted itself. I, therefore, resign as a protest against the foreign-born leadership that blindly believes a non-American policy can be made to appeal to many Americans." (*pp.* 1541-1542).

In refreshing contrast to the disloyal and treasonable program of the Socialist Party of America is the declaration of the American Federation of Labor passed immediately preceding the declaration of war with Germany:

"In this solemn hour of our nation's life it is our earnest hope that our Republic may be safeguarded in its unswerving desire for peace, that our people may be spared the horrors and the burdens of the war, that they may have the opportunity to cultivate and develop the arts of peace, human brotherhood and the higher civilization, but despite all our endeavors and hopes should our country be drawn into the maelstrom of the European conflict, that with these ideals of liberty and justice herein declared as the indispensable basis for national policies, we offer our services to our country in every field of activity to defend, safeguard and preserve the republic of the United States of America against its enemies, whosoever they may be, and we call upon our fellow workers and our fellow citizens in the holy name of labor,

justice, freedom and humanity to devotedly and patriotically give like service." (pp. 685-6).

The Socialist Party of America held no conventions after April, 1917, until September, 1919.

Although the party held no conventions after April, 1917, and before the close of the war, its members were not idle. The program of the party was carried into effect by an unceasing deluge of propaganda. Pamphlets by the hundreds of thousands were distributed. They were of the most disloyal and treasonable character. Some of them have been received in evidence and read to the Committee. They were deliberately intended to prevent enlistment, to obstruct the draft laws and the sale of Liberty Bonds, to discourage every kind of patriotic activity and to destroy the morale of the people by ghastly pictures of the horrors and consequences of war, utterly unscrupulous misrepresentations of the purposes of our participation in the war, and by making the loyal men and women who in one activity or another were giving their lives and fortunes to the national defense objects of ridicule, insult and hatred. Many of these publications and utterances have been the subject of judicial comment and some of the records in such cases are before the Committee.

In the city of New York the daily organ of the Socialist Party published in English was denied certain privileges under the postal laws. Exhibit 98, consisting of the answer of the Postmaster-General to the petition for mandamus to compel him to restore to the New York Call such rights, and to a rule directing him to show cause why such rights should not be restored, contains excerpts by date and title from some of the issues of that publication during the period beginning shortly after the war and continuing throughout the same and thereafter. These excerpts fill 60 pages of that

answer. (*Ex.* 98, *pp.* 258-312). It would unduly and unnecessarily prolong our exposition of the activities of the party were we to insert at this point these articles and pamphlets. It is sufficient to say that if the imagination were to be drawn upon to formulate the most vicious, disloyal and anti-American utterances that could be conceived, one would not have imagined or conceived of anything comparable in these respects with what was actually published.

It is not surprising, therefore, that, in the report of the Executive Committee of the Socialist Party of America to the National Emergency Convention held in Chicago, September, 1919, we read that some two thousand Socialists in all have been arrested and that some of the foremost leaders of the party are now serving prison terms for carrying out the program and principles of the party. Notable among these violators of the law are Eugene V. Debs, the choice of the party for President of the United States in the year 1920; the National Executive Secretary, Germer; the editor of the party organ ("The American Socialist"), Engdahl; the Secretary of the Young Peoples' Socialist League, Kruse; the following members of the National Executive Committee: Victor L. Berger, Shiplacoff and Clark. Herman Krafft and Wagenknecht, of the National Executive Committee, have served terms in prison. Victor L. Berger, in addition to a sentence of 20 years, has four indictments pending against him, besides being refused his seat in Congress; and the number includes Irwin St. John Tucker, one of the party's most prolific writers of propaganda. All the Socialist candidates for Congress in Wisconsin and the State secretary also were under indictment in September, 1919.

To this should be added the statement of the National

Executive Committee published in the official bulletin, explaining the reason why no convention was held.

“To have held the convention would have subjected many comrades to persecution and imprisonment” (*pp.* 1488–1489.)

In other words, it was impossible to give expression to or act upon the true doctrines of the Socialist Party during the war without running afoul of the criminal law.

In the face of this record of active and continuous opposition and obstruction to the government, during the war, counsel for the five Socialist Assemblymen before this proof was adduced challenged the existence of it, and declared that if our contention were established there would be nothing for these five men to do but leave the Chamber in humiliation. His language is as follows:

“Your last charge I shall refer to, and it is No. 7 — it is the only charge which I consider has any merits. You say: ‘The Socialist Party of America did urge its members to refrain from taking part in any way, shape or manner in the war, and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of the said war, and did thereby stamp the party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.’

“That is a fairly definite statement of what the framers of this may have considered to be the truth. That is an issue we are quite willing to meet, and I think it will be an issue that they will regret they ever suggested, for we are very certain and positive no proof, no act or declarations of the

party, either in its prominent councils or its locals, will be found to verify in the slightest degree that statement. If this party advocated and urged its members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of war, and did thereby stamp the said party and all its members, and so forth, if that is proven against the party, and these men are members of it, we will have nothing to say except leave these Chambers in humiliation" (p. 103).

This admission, made deliberately by counsel for the Socialist Assemblymen, before any proof in support of the charge had been introduced is, in view of the proof just reviewed, in and of itself sufficient to justify the exclusion or expulsion of these men. Let us analyze counsel's statement:

First: The charge is definite. It is "a fairly definite statement of what the framers of this may have considered to be the truth."

Second: The charge is one which if proved will not only justify and merit but must result in the unseating of these men, for counsel says "this is the only charge which I consider has any merits," and *if it "is proven against the party, and these men are members of it, we will have nothing to say except leave these Chambers in humiliation."*

If, therefore, there were nothing else in the case but this charge, the report of this Committee on a finding that the charge has been proved must recommend the unseating of these five men.

(For the legal argument on the effect of the pledge taken by the five Socialist Assemblymen not to "vote to appropriate moneys for military or naval purposes

or war" as disqualifying them from taking the constitutional oath of office see *Preliminary Brief, Point I, pp. 2-9*).

We come now to the *second* proposition in our discussion of the organization's unlawful methods.

We have already demonstrated that the object of the Socialist Party is to destroy the institutions of the United States and of this State as their contribution to the International Socialist Revolution. This party does not propose to bring about this change by parliamentary means and the use of the ballot because its leaders are aware that it cannot by such means undermine the patriotism of the majority of the voters of this country.

It has become necessary, therefore, to forge a new weapon which offers promise of effectuating the party purposes.

This weapon is industrial organization. The arteries of the nation's industries are to be clamped with the general strike and the sworn officers of this country rendered impotent to perform their constitutional duties and compelled to surrender their legal functions into the hands of a militant revolutionary minority guided and controlled by the Socialist Party. In short, the purpose is to overthrow what they invariably refer to as the capitalistic system by the establishment of the dictatorship of the proletariat.

That the Socialist Party contemplates the use of strikes and that it is part of its program to utilize the general strike for that purpose is plainly declared by Algernon Lee:

"Q. Are strikes one of the means of mass action which the Socialist Party contemplates the use of?

A. On occasions where they are suitable for the purposes of the working class; yes, sir.

"Q. Did you ever hear of any political party advocating the use of strikes? A. Oh, yes.

"Q. Socialist Party? A. Yes.

"Q. Did you ever hear of a general strike? A. Very often.

"Q. What is a general strike? A. A general strike means a strike which, if the phrase is used accurately —

"Q. Let's use it accurately. A. Yes. It means a strike which extends to numerous trades and occupations for some general purposes concerning the interests of the working class movement as a whole.

"Q. Yes. A. We might call it a general strike without it being absolutely universal. I suppose it would be hard to say just how large it would be to call it general but I think my answer is clear.

"Q. I think it is too. And in connection with manifestoes and declarations of party principles, the Socialist Party refers to political action backed up by industrial action; one of the things that is carried in mind and is indicated by the language used is the use of the general strike, isn't it? A. It might be one of many things carried in mind in that particular connection.

"Q. And the manner in which you generally intend or assume it may be made effective is to back up political action, isn't that true, Mr. Lee? A. Will you repeat the question?

"Q. Read it, if you please. (Question repeated by the stenographer.) A. That is, it means the general strike?

"Q. The general strike. A. Very frequently the general strike is used to back up political action, not always.

"Q. But it is one of the means in which you contemplate the use of or by which you would back up political action? A. It has been used in that way.

"Q. And it is a part of the program of the Socialist Party of the United States to utilize it for that purpose, isn't it? A. If the circumstances should exist, which made that necessary, I take it that it would be construed so." (*pp.* 580-1.)

At this point we direct attention to the remarks made by counsel for the five men, during his closing argument, on this branch of the case, constituting a frank and unblushing threat of the use of industrial mass action. Under the veil of a simile a threat was employed that if the Assembly concluded that these five Socialist Assemblymen should not sit in this Chamber as members of this body a general strike might be called. It was phrased and expressed in this way: He was explaining and illustrating the circumstances under which such a general strike might be employed. Said he in effect (*p.* 2156): "If a Labor party were organized in the United States, and that Labor Party succeeded in securing the election of members to the Legislature, and when those men presented themselves to the Legislature for the purpose of taking their seats therein and to accomplish their legislative duties, a representative of capitalism, owning the Legislature, should say to those representatives: 'You cannot sit here,' then they would go home and their adherents, their constituents would, by virtue of the general strike, compel the Assembly to take them in."

In the whole literature devoted to the development of this idea there has been no more frank exposition of the doctrine than this. It is the proof, sufficient and satisfactory to the point of demonstration, of the charge

that has been made in this case and the threat goes still further. Suppose that the Assemblymen so elected should introduce proposed legislation in this body and it is defeated by an overwhelming majority of the membership of the Assembly. They must not only be admitted but the Assembly accept their legislative program and enact it into law; otherwise, the general strike will again be employed, and it can be employed not merely for the purpose of dictating to this Assembly whom it shall and whom it shall not admit as members, not only what legislation it shall and shall not adopt, but it can be utilized in like fashion to impose upon the people of the United States the form of government that the adherents to and expounders of the general strike desire the people to have. No more complete, no more intelligible, no franker exposition of its purposes was ever made than was made by counsel for these five men.

The weapon is not a new one. The measures taken by the party during the war to oppose and obstruct the government of the United States in all matters relating to the national defense, and involving the use of industrial action to effectuate the purposes already referred to and described, merely carry down to the present day what has been advocated in other times.

In the resolutions adopted by the Brussels Congress in 1868 the following paragraphs are found:

“The Congress recommends above all to workers to cease work in case a war be declared in their country.

“The Congress counts upon the spirit of solidarity which animates the workingmen of all countries and entertains the hope that means will not be wanting in such an emergency to support the people against their government” (p. 1478).

In the Stuttgart Conference of 1907 a resolution was adopted, concluding with the following paragraph:

"In case war should break out notwithstanding, they shall be bound to intervene for its being brought to a speedy end and to employ all their forces for utilizing the economical and political crisis created by war in order to rouse the masses of people and to hasten the downfall of the pre-dominance of the capitalistic class." (p. 1479).

The Zimmerwald proclamation in September, 1915, and the Kienthal manifesto of 1916, under Lenine's leadership likewise advocated the general strike. (p. 1922).

In the manifesto adopted at Chicago in September, 1919, there is a significant paragraph showing that the purposes of the party to-day are what they have been throughout the war — that the party continues in harmony not only with Lenine's International program, but also in its understanding of the means by which it is to be brought about. These means are in violation not only of our constitutional guarantees, but also of the rule of the majority, the cardinal principle and essential characteristic of republican government. Minority rule, expressed in the phrase "dictatorship of the proletariat," is to be employed in the supreme effort to make effective the international program.

Toward the end of that manifesto and under the caption, "Workers must take industries," where the explanation is made that the great purpose of the Socialist party is to wrest the industries and the control of government of the United States from the capitalists and their retainers, the manifesto plainly declares for the organization of workers' councils or Soviets:

"To insure the triumph of socialism in the United States the bulk of the American workers

must be strongly organized politically as Socialists in constant, cleancut and aggressive opposition to all parties of the possessing class. They must be strongly organized in the economic field on broad, industrial lines as one powerful and harmonious class organization, co-operating with the Socialist Party and ready in cases of emergency, to reinforce the political demands of the working class by industrial action." (pp. 306-307.)

"To reinforce the political demands of the working class by industrial action." The concluding argument of counsel for these five men contains a complete and full exposition of how that is to be accomplished, and what those terms mean.

In like manner the preamble to the National Constitution of the Socialist Party adopted by referendum in 1919 states its objective in the following terms:

"The workers must wrest the control of the government from the hands of the master class, and use its powers in the upbuilding of the new social order — the co-operative commonwealth."

The methods to be employed are stated in the following paragraph of this same preamble:

"The Socialist Party seeks to organize the working class for independent action on the political field, not merely for the betterment of their conditions, but also and above all with the revolutionary aim of putting an end to exploitation and class rule. Such political action is absolutely necessary to the emancipation of the working class, and the establishment of genuine liberty for all."

While this political action is considered essential it is also held to be ineffectual without industrial action,

and this is made clear by the following paragraph which immediately succeeds the one just quoted:

“To accomplish this aim it is necessary that the working class be powerfully and solidly organized also on the economic field, to struggle for the same revolutionary goal; and the Socialist Party pledges its aid in the task of promoting such industrial organization and waging such industrial struggle for emancipation.” (*pp.* 1046-7.)

No opportunity is lost by leaders of the Socialist Party to impress upon the rank and file of that organization that it is impossible to achieve the ultimate triumph of their cause by political action only. Every manifesto, every platform, almost every utterance of the Socialist orator carries with it the party mandate that the workers of America should be organized industrially so as to be submissive to the command of a revolutionary leadership. It is for this reason that the American Federation of Labor is subjected to continuous attacks and misrepresentation, its officers villified and its program declared to be inimical to the interests of the working class. It is for this reason that Debs, who was originally an ardent trade unionist, but who after joining the Socialist Party abandoned and repudiated his former associates, uttered the following sentiment:

“The Trade Union is outgrown and its survival is an unmitigated evil to the working class. Craft unionism is not only impotent but a crime against the workers.”

At the moment of crisis in the nation's history when the existence of a state of war with the Imperial German Government had just been declared, this party in addition to the announcement of the war program which

has been heretofore referred to, and in addition to the provisions of the platform then adopted, presented and approved the following resolution:

"The Socialist Party will ever be ready to co-operate with the labor union in the task of organizing the unorganized workers, and urges all labor organizations, which have not already done so, to throw their doors open to the workers of their respective trades and industries, abolishing all onerous conditions of membership and artificial restrictions, *with the view that their organizations be eventually developed into industrial, as well as militant, class-conscious and revolutionary unions with the development of the industries.*"\*

"In the face of the tremendous powers of the American capitalists and their close industrial and political union, the workers of this country can win their battles only through a strong class-consciousness, and closely united organization on the economic field, a powerful and militant party on the political field, and by a joint attack of both on the common enemy." (p. 465.)

In furtherance of this plan of industrial organization and action, the following instructions were given to members of the Socialist Party in the same resolution:

"It is also the duty of members of the Socialist Party who are eligible in the union to join and be active in their respective labor organizations." (p. 465.)

These quotations from the official pronouncements of the Socialist Party show that the party recognizes that only through the employment of industrial action can its objective be attained.

\* Italics ours.

That the rank and file of the party membership are fully aware of the futility of bringing about a revolution in the United States, and the destruction of its institutions by means of the ballot is also made clear by the utterances of Assemblyman-elect Claessens in his speech at the Park View Palace, November 7, 1919, when he said (p. 236):

“Now, thank goodness, Socialists are not only working along political lines. If we thought for a minute it was merely a dream on our part, a great political controversy, until we have a majority of men elected, and then by merely that majority, declare the revolution, if any of you smoke that pipe dream, if that is the quality of opium you are puffing now, give it up, give it up.”

That it was the intention of these Assemblymen-elect to carry out this part of the program and use the political offices to which they were elected for propaganda purposes, and employ their seats in this Assembly as a rostrum from which to appeal to the workers, is made clear in the same speech of Mr. Claessens, as follows:

“But we are going to the Assembly, and we will tell it to them. There are five of us. Charlie Solomon is one. There are others, and I will go myself into the bargain, and we will tell them something. But we won't waste much time in the Assembly, comrades, talking to that bunch which sit there with stolen property, sitting in their seats, but we will use our position with the Assembly and reach the ‘Henry Dubs’ and speak to them, and I can assure you, comrades, we won't sleep one night when we are in Albany, but every night we will be speaking in Troy, Schenectady

and Amsterdam. Everywhere around there, arousing the workers wherever we possibly can." (p. 238).

In adopting a program of industrial action involving the use of the general strike, the Socialist Party has stripped itself of the mask of political action and stands revealed as a radical, revolutionary, propaganda organization which seeks to bring about on a larger scale the conditions which have been so graphically described by the witness McKay to have resulted to the city of Winnipeg from the same propaganda and from the employment of the same methods and tactics.

If the Socialist Party is a political party and seeks to achieve social reform by parliamentary means, the program of industrial mass action has no place in its platform or pronouncements. We are told by several of the witnesses who have appeared for the five Assemblymen that industrial action and the general strike were to be employed by the Socialist Party only after it has achieved the control of governmental affairs by parliamentary means and that its purposes will then be to compel an unwilling and rebellious bourgeois minority to submit to the decision of the ballot box.

The pronouncements of the party with respect to industrial action can have no such interpretation. Without exception they indicate that industrial action is to be the compelling instrument for wresting the control of government from its present hands and for the establishment of class dictatorship.

A clear statement of the real purpose of political action on the part of the Socialist Party is found in a pamphlet issued by the Jewish Socialist Federation, a branch of the Socialist Party of America.

A word will be appropriate at this point with respect to the foreign language organizations, because there

is apparently a misapprehension as to the extent to which they constitute a part of the organization of the Socialist Party of America.

The Socialist Party of America, under its constitution, provides for the organization of foreign language federations. These federations are organized for the purpose of gathering together into Socialist groups, not only under the auspices, but also pursuant to the provisions of the constitution of the Socialist Party of America, those speaking a foreign language. The whole system of administration of such groups is described by the constitution of the Socialist Party of America. Provision is made therein for a translator-secretary, whose office is to be in the national office of the party,—now, or lately, at any rate, in the city of Chicago.

The foreign language federation appoints the translator-secretary, but his compensation comes from the party itself through the Executive Committee, and in any number of ways, indicated by pertinent provisions of the constitution, in the administration, control and operation of these foreign language federations, the party itself exercises absolute control over them. If the actions of the foreign language federations are not in conformity with, or violate some of the principles of Socialist administration organization, they are denounced and cut off from the main Socialist Party, their charters are revoked, and they become outlaw organizations, not permitted to participate in the deliberations of the party itself and are denied representation in its councils.

The purpose for which each foreign language federation is organized is the dissemination of propaganda in the language. It is organized by the party for this purpose and no other. Literature is disseminated by

such federations and the party itself exercises control over the propaganda by having the translator-secretary at the national headquarters of the party.

Manifestly, under these circumstances, the Socialist Party of America cannot repudiate that which is done under the provisions of its constitution. It creates and organizes these bodies for a definite purpose. They can accomplish their purpose only by publishing and disseminating information in the form of pamphlets and periodicals printed in the language spoken by those who are the members of the particular language federation. On the legal principles applicable to relationships of principal and agent, and employer and employee (since the translator-secretary, the man who actually disseminates the literature among the foreign language membership, is the employee of the Socialist Party of America itself), there can be no ground upon which the party can attempt repudiation of these pamphlets, these articles, the propaganda which the foreign language federation sends out under the authority that it receives from the constitution of the Socialist Party of America, and by virtue of an organization established in conformity to the constitution of that party.

A clear statement of the real purpose for participation in political action by the Socialist Party is found in the aforesaid pamphlet issued by the Jewish Socialist Federation, a branch of the Socialist Party of America, as follows:

“ Consider the question, that so long as the State is an instrument, a tool in the hands of the bourgeoisie in the fight against the proletariat, so long as the State is the dictatorship of the bourgeoisie, why do the Socialists seek to send their representatives there? Where do Socialists fit into the State? What can they do there?

"Socialists seek to enter into the government for two reasons: First, to be nearer to the doors of the chambers where dictatorship sits, and second, to hinder the dictatorial work in any way possible. The first reason is the most important. Sitting in Parliament or in Congress, being inside of the government councils, affords Socialists an opportunity to find out the plans, the strategy of the State. And knowing this they can carry out their propaganda the better. Socialists seek to be elected into the government principally for the sake of propaganda" (p. 208).

It is unnecessary at this point to carry the discussion any further than to refer merely to the attitude of the party toward strikes of every nature and description which it admittedly and invariably supports and encourages, an attitude reflected in the statement made by Claessens with regard to the Winnipeg strike where he had been (*testimony not denied by him*, p. 975) and by the occurrence testified to by Inspector McElroy and Lieutenant Ahlers of the New York Police Force with regard to the conduct of Solomon during the car strike in the summer of 1919 (p. 727).

In short, there is complete and satisfactory evidence in the record that in the contemplation of the Socialist Party of America the success of its movement to substitute for the government and institutions of the United States a Soviet form of government with harmonious institutions can only be accomplished by political action and industrial action, which must be employed as the two strong arms of a giant to pull down the structure of our government which has been built and maintained by the blood and toil of countless loyal citizens of this Republic.

We now come to the *third* proposition under the dis-

cussion of unlawful methods employed by the organization to accomplish its purposes.

The third element to be employed in bringing about the revolution in this country, advocated sometimes directly, sometimes by insinuation and suggestion, is that of violence. The Socialist Party of America, while professing to utilize political action, constantly denies that existing evils or defects may be remedied by such action and insists that such political action must be supplemented by violence, which it advocates, sometimes directly, and at other times by insinuation and suggestion.

In the national convention of the Socialist Party for the year 1908, Victor L. Berger, now under sentence of imprisonment for violation of the Espionage Act, and one of the members at present of the National Executive Committee, uttered the following words:

“Comrade Chairman and Comrades: There is a growing tendency not only in this country, but in other countries to deprecate political action. That tendency you can see in Italy and France, even in Germany to some extent, although less there than anywhere else, and in this country. The Syndicalists in Italy fight political action. They call themselves Socialists and are members of the Socialist Party. There is a strong element or was at least in this country doing the same thing, and I have heard it pleaded many a time right in our own meetings by speakers that come to our meetings, that the only salvation for the proletariat of America is direct action; that the ballot box is simply a humbug. Now I don't doubt that in the last analysis we must shoot and when it comes to shooting Wisconsin will be there. We always make good” (pp. 1455-6).

This declaration was explained by Mr. Hillquit as being a prophecy, not a program (*p.* 1457), but in the following year under date of July 31, 1909, the same Victor L. Berger in the *Social Democrat Herald* unmistakably proved that he was in favor of the same thing as the program, for this is his language:

“No one will claim that I am given to the reciting of ‘revolutionary’ phrases. On the contrary, I am known to be a ‘constructive’ Socialist.

“However, in view of the plutocratic lawmaking of the present day it is easy to predict that the safety and hope of this country will finally lie in one direction only — that of a violent and bloody revolution.

“Therefore, I say, each of the 500,000 Socialist voters and of the 2,000,000 working men who instinctively incline our way, should besides doing much reading and still more thinking, also have a good rifle and the necessary rounds of ammunition in his home and be prepared to back up his ballots with his bullets if necessary.” (*p.* 1459.)

To come down to a recent date, on January 12, 1919, at a meeting in the city of Milwaukee presided over by the Socialist Mayor of the city at which other prominent Socialists were present, including one of the counsel for the five Assemblymen, William Bross Lloyd, who had then been recently the Socialist party candidate for United States Senator for the State of Illinois, made a speech in which he employed the following language:

“We know that the readier we are to fight, the bigger army we have got, the bigger navy, the more ammunition, the less chance there is for us to have to fight. So what we want is revolutionary preparedness. We want to organize, so if you want

to put a piece of propaganda in the hands of everybody in Milwaukee, you can do it in three or four hours. If you want every Socialist in Milwaukee at a certain place, at a certain time, with a rifle in his hand, or a bad egg, he will be there. We want a mobilization plan and an organization for the revolution. We want to get rifles, machine guns, field artillery and the ammunition for it. You want to get dynamite. You want to tell off the men for the revolution when it starts here. You want to tell off the men who are to take the dynamite to the armory doors and blow them in and capture the guns and the ammunition there so that the capitalists won't have any. You want to tell off the men to dynamite the doors of the banks to get the money to finance the revolution. You want to have all this ready, because the capitalist propaganda of unpreparedness teaches that if you have it ready you won't need it, and you won't because if you have that sort of an organization, when you get a political victory,—and you can get it,—the other side will lay down. If they don't you go take their laws, their police and their military and use it against them. Let's see how they will like that. It is bourgeoisie to conspire to commit treason or every crime under the sun. A Bolshevick is a man that don't care whether school keeps or not, so long as the revolution goes on" (p. 1623).

These remarks were characterized as "witty" by one of the Socialist counsel (p. 1623).

The public utterances of three of these five Assemblymen are of the same character.

In September, 1919, at the Chicago Convention, Mr.

Waldman made the following statement upon the floor of the convention:

"If I knew we could sway the boys when they get guns to use them against the capitalist class I would be for universal military training." (p. 928.)

This also was characterized as a "joke" (p. 1866.)

The speech made by Claessens on November 7, 1919, at Park View Palace, on the occasion of the celebration of the second anniversary of the Russian Soviet Republic was plainly intended in every line to demonstrate to his auditors that they could not expect any remedy or relief from existing causes of complaint against the administration of the Election Law, through the orderly processes of the courts, but only by violence. He asserted that the great mass of the American people were brutal, bestial and inferior to the Russian comrades of the Socialists; that his auditors had no chance in court with the representative of a crook sitting on the bench (p. 234); that the courts were elected by illegal practices and that judges held their seats by fraud. "If they are not thieves a great many of them are receivers of stolen goods, and you can imagine—you can imagine how much justice you can get from this bunch" (p. 235). "You might just as well refer to this nation as 'The United States of Thieves'" (p. 235.) There is no American Republic, he declared; it is merely one huge institution based upon fraud (p. 236), and the members of the Assembly steal their seats and sit there with stolen property (p. 238). He summed up his arraignment of the American people, the judiciary and this body with the concluding statement that what he had related was "but another reason and argument that proves the necessity of not merely a political victory but a social revolution" (p. 238).

It is utterly impossible to attribute any other meaning to the language employed by Oneal at the meeting held on the same evening, November 7, 1919, at the Brownsville Labor Lyceum in Brooklyn, presided over by Solomon (at which Waldman also was one of the speakers) but that it was an appeal to violence, and a declaration that the revolution could not be accomplished except by the employment of violence. (For further examples, see pp. 57-74 of the preliminary brief with quotations from pertinent parts of the record.)

Not all of the members of the party and its leaders advocate violence so openly and frankly as the authors of some of the declarations which we have just considered. The utterances of others as in the case of parts of the Claessens speech of November 7, 1919, certain propaganda of another kind shrewdly calculated to create hatred of, resentment against, contempt for, and resistance to the government, its laws and the administration thereof, and a desire to overthrow and destroy our institutions.

This is an essential part of the revolutionary program and tactics of the party. It is unfortunate for the contention repeated and reiterated throughout the defense of these five men, that the revolution which they advocate is to be accomplished peacefully, that Debs, their unanimous choice for President is continually inciting his hearers to a violent destruction of our government, as are they themselves by their own speeches.

It is pertinent and even important, in view of his leadership, to study the acts and attitude of Debs in order to see the purpose and attitude of the Socialist party and these members of it who are now before the Assembly for examination as to their fitness to legislate for the People of the State of New York.

On June 16, 1918, in the city of Canton, Ohio,

Debs made a speech condemning the government in its prosecution of the war and extolling as martyrs those who had been convicted of wilful violation of the laws of the United States in obstructing the government during the war. He was indicted and convicted under the Espionage Act because of that speech; and counts three and four of the indictment on which he was convicted charged him with having caused and attempted to cause and incited and attempted to incite insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States and with obstructing and attempting to obstruct the recruiting and enlistment service of the United States. (*Debs record*, pp. 29 and 40).

The speech constituted the closing event of a convention of the Ohio State Socialist party. It was delivered from a platform on which no American flag was displayed. In the audience were young men of draft age in large numbers. It was delivered at the very height of the great German offense which began March 21, 1918. The day before the drive began the German Kaiser declared "The prize of victory must not and will not fail us—no soft peace but one corresponding to Germany's interest." Paris was under bombardment by a new gun of greater range than any previous gun had possessed. The losses sustained by the Allies were appalling. The Germans were once more at the Marne and within forty miles of Paris. In their colossal offensive they had taken many prisoners, much territory and enormous booty and were aflame with the ardor of victories which had brought them nearer to their coveted prey. They were eager for the final spring and believed that the doom of their adversaries, including at that time the United States, had been sealed. The world was gripped with an awful fear. In America a great wave of dread fore-

boding swept over the public mind. Our armies were being rushed across the sea hundreds of thousands a month, ten thousand a day, and the question was whether they had arrived too late. In one intensive movement America was calling upon her men and her resources for a supreme effort to save the Allied cause. If we failed, the world would be at the feet of an imperious military master enthroned at Berlin with his representative in every capital.

Just then Debs, representing the party which had issued that most treasonable document, the St. Louis war proclamation and platform, was putting into effect at Canton the teachings of that platform and the precepts of that party.

At a short distance from the place where Debs spoke was the Canton City Workhouse in which were confined Alfred Wagenknecht, Charles Baker and Charles E. Ruthenberg, three men who at a Socialist meeting in the city of Cleveland had delivered speeches against the war and the draft which had caused their conviction for counselling and abetting a violation of the Draft Law, a conviction which was later upheld by the Supreme Court of the United States.

Immediately preceding his address Debs had visited these men in the workhouse. He opened his speech with the statement that he was speaking to and for the working classes and then referred to his visit to the workhouse in the following words (*p. 194, Debs record*):

"I have just returned from a visit over yonder (pointing to the Workhouse) where three, three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world."

A minute or so later he added (*Debs record*, pp. 194-195):

"They are simply paying the penalty that all men have paid in all ages of history for standing erect and for seeking to pave the way to better conditions for mankind.

"If it had not been for the men and women who in the past have had the moral courage to go to jail we would still be in the jungle."

Then followed a general reference to the Socialist movement, its situation and opportunities, beginning with the sentence, "There is but one thing that you have to be concerned about and that is that you keep foursquare with the principles of the International Socialist movement." (*Debs record*, p. 195.) The course which he advocated for the members of the working classes in the war between them and what he called the exploiting classes may be illustrated by the following passage which again included a reference to Baker, Wagenknecht, and Ruthenberg (*Debs record*, p. 196);

"It is true that these are anxious, trying days for us all — testing days for the women and men who are upholding the banner of the working class in the struggle of the working class of all the world against the exploiters of all the world; a time in which the weak and cowardly will falter and fail and desert. They lack the fiber to endure the revolutionary test; they fall away, they disappear, as if they had never been. On the other hand, they who are animated with the unconquerable spirit of the social revolution, they who have the moral courage to stand erect and assert their convictions; stand by them, fight for them, go to jail or to hell for them, if need be, and — they are

writing their names, in this crucial hour—they are writing their names in fadeless letters in the history of mankind.

“Those boys over yonder—those comrades of ours—and how I love them—aye, they are my younger brothers; their very names throb in my heart, and thrill in my veins, and surge in my soul. I am proud of them; they are there for us; and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before and their voice, though silent, is heard around the world.”

Then followed (*Debs record*, pp. 196–203), a picture of a contrast between the patriotism of militarists, junkers, and other types of those so-called “exploiters” and the patriotism of the Socialist working class leaders. Persons named as illustrations of the one group were Theodore Roosevelt, the German kaiser, various governmental bodies, and Wall Street junkers, and of the other group, Kate Richards O’Hare, Scott Nearing, and others. The reference to Kate Richards O’Hare (*Debs record*, pp. 200–201) was as follows:

“Let me review another bit of history in connection with this case. I have known Kate Richards O’Hare intimately for twenty years. I know her record by heart. Personally, I know her as if she were my own younger sister. All who know her know she is a woman of absolute integrity. And they know, too, that she is a woman of courage, and they know that she is a woman of unimpeachable loyalty to the Socialist movement. When she went out into Dakota and made her speech, followed by plain clothes men in the service of the government intent upon encompassing

her arrest and her persecution and her conviction — when she was out there, it was with the knowledge that sooner or later they would accomplish their purpose. She made a certain speech, and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony against her was that of a hired witness. And when thirty farmers, men and women who were in Bismarck to testify in her favor, to swear that she had never used the language she was charged with having used, the judge refused to allow them to go upon the stand. This would seem incredible to me, if I had not had some experience of my own with a Federal Court."

The statement of Debs in his Canton speech as to the conviction of Kate Richards O'Hare is a characteristic utterance of this Socialist leader and is a notable instance of the method and tactics of the Socialist propaganda in arousing hatred toward the government of the United States by false assertions to the effect that all government agencies are banded together for the persecution and oppression of the working classes, that there is no such thing as honesty and justice in the United States, and that nothing can be gained by reform in our present system of government, but that the whole thing must be overthrown by a revolution in which the capitalist class and the government itself, which is the instrument of the capitalist class, shall go down together.

He said in that speech that Kate Richards O'Hare was convicted for words that she didn't utter, the speech being deliberately misrepresented for the purpose of securing her conviction and that the only testimony against her was that of a "hired" witness and that when thirty farmers, men and women who were in Bis-

mark to testify in her favor, to swear that she never used the language, the judge refused to allow them to go upon the stand. We have the Kate Richards O'Hare record in evidence (*Ex. 112*), from which it appears that Mrs. O'Hare, who was Chairman of the Committee on War and Militarism in the Convention of April, 1917, was indicted and tried at Bismarek, North Dakota, for uttering certain language in a public speech at Bowman, North Dakota, which had as its purpose the discouraging of enlistment and obstructing the prosecution of the war by our government. She was charged with saying in substance that "any person who enlisted in the Army of the United States for service in France would be used for fertilizer and that is all that he was good for, and that the women of the United States were nothing more or less than brood sows to raise children to get into the army and be made into fertilizer." (*O'Hare rec., p. 2*).

Instead of being convicted upon the testimony of a single witness, some hired informer — she was on the contrary convicted on the testimony of five or six witnesses who heard her speech. These witnesses were farmers — residents of the locality — and a physician, and instead of being denied the right of having anyone swear in her own behalf, as Debs had stated, the defendant herself and eight other witnesses were heard who testified that they listened to that speech and she did not use the words complained of. She was convicted by a jury and her conviction was affirmed upon appeal.

Debs, however, pictured to the crowd on that June day a situation which was naturally calculated to impress his hearers with the belief that the government of the United States was a monstrous engine of oppression and that its courts were tyrannical and horrible engines of despotic tyranny. He lauded the three young

men who were in the penitentiary within sight of the meeting as martyrs to the cause of the working class. They had been convicted for aiding and abetting disobedience to the law governing registration of young men of military age.

Debs' conviction was affirmed unanimously by the Supreme Court of the United States, March 10, 1919 (*Debs v. United States*, 249 U. S. p. 211). The conviction of Ruthenberg was also affirmed by the United States Supreme Court (245 U. S. 480).

The attention of the Committee is earnestly invited to the opinion of the Supreme Court in the Debs case, and particularly because of the reference in it to the anti-war proclamation and program of the Socialist party adopted in St. Louis in April, 1917. That historic document was introduced in evidence in the Debs case because Debs had expressed his approval of it to witnesses who were called on the Debs trial. It was received as proof of Debs' attitude of disloyalty toward the government and his disloyal intent and purpose in delivering the speech at Canton in June, 1918, for which he was convicted. In respect to the anti-war proclamation aforesaid, the Supreme Court says at pages 215 and 216 of the report which will be found in Volume 249:

"There was introduced also an 'Anti-war proclamation and program' adopted at St. Louis in April, 1917, coupled with testimony that about an hour before his speech the defendant had stated that he approved of that platform in spirit and in substance. The defendant referred to it in his address to the jury, seemingly with satisfaction and willingness that it should be considered in evidence. But his counsel objected and has argued against its admissibility, at some length. This

document contained the usual suggestion that capitalism was the cause of the war and that our entrance into it was 'instigated by the predatory capitalists in the United States.' It alleged that the war of the United States against Germany could not 'be justified even on the plea of American honor.' It said: 'We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world. In all modern history there has been no war more unjustifiable than the war in which we are about to engage.' Its first recommendation was, 'continuous, active and public opposition to the war, through demonstrations, mass petitions, and all other means within our power.' *Evidence that the defendant accepted this view and this declaration of his duties, at the time that he made his speech is evidence that if in that speech he used words tending to obstruct the recruiting service he meant that they should have that effect. The principle is too well established and too manifestly good sense to need citation of the books.\** We should add that the jury were most carefully instructed that they could not find the defendant guilty for advocacy of any of his opinions unless the words used had as their natural tendency and reasonably probable effect to obstruct the recruiting service, etc., and unless the defendant had the specific intent to do so in his mind."

At his trial, Debs addressed the jury and among other things said: "I have been accused of obstructing the war. I admit it. Gentlemen, I abhor war. I would oppose the war if I stood alone."

\*italics ours.

With respect to his coupling an abhorrence of war in general with his statement of obstructing the war in which we were engaged, the Supreme Court says at pages 214 and 215 (and this remark is applicable to much of the testimony of the witnesses upon this proceeding who attempt to justify their statements with reference to the war on the ground that they are opposed in principle to all kinds of wars) :

“ The statement was not necessary to warrant the jury in finding that one purpose of the speech, whether incidental or not, does not matter, was to oppose not only war in general but this war, and that the opposition was so expressed that its natural and intended effect would be to obstruct recruiting. If that was intended, and if, in all the circumstances, that would be its probable effect, it would not be protected by reason of its being part of a general program and expressions of a general and conscientious belief.”

We will not take further time with Debs, although the attention of the Committee might profitably be given to the address delivered by him March 12, 1919, at a Socialist rally at Cleveland (*p.* 427) in which he said: “ With every drop of blood in my veins, I despise their laws and I defy them,” and in which he said, “ I am going to speak to you as a Socialist, as a revolutionist and as a Bolshevist, if you please.”

The position taken by Debs is the position of the party. The acceptance of the program promulgated by Lenine and Trotzky in the Manifesto of the Third or Moscow Internationale is a program of force and violence. It is this program that Assemblyman-elect Louis Waldman in his speech of November 7, 1919, unqualifiedly supports and approves.

We have observed that the document known as the Manifesto of the Moscow International exhorts the proletariat of all lands, including the United States of America, to disarm the bourgeoisie at the proper time and arm the laborer. This implies no peaceful revolution, but rather one to be accomplished by force and violence.

We have been told by the witnesses for the five Assemblymen that, in the Socialist conception, revolution is a peaceful process like the turning of a well-oiled wheel. They admit, however, that it is necessarily accompanied by the unfortunate corollary of violence.

The words of James Oneal, in the speech made by him at the Brownsville Labor Lyceum, on November 7, 1919, so heartily approved by Assemblyman Solomon, are as follows:

“But, they say, there has been violence in Russia. Some violence in a revolution! Just imagine? Do they think a revolution is a pink tea party, for men and women to gather around the table and say, ‘Now, let us have a revolution. Have a drink with me. Let us have a drink. Let us drink to the success of the revolution.’ — and then you go out and slap a Bolsheviki on the wrist, and say, ‘Please depart; we want a little revolution!’ (Laughter.) Is that the way you have a revolution?

“Every tremendous appeal in the world’s history that has brought about new institutions, every great revolution, the French Revolution, the American Revolution, the Russian Revolution — all such revolutions have been accompanied with more or less violence, and it is impossible to dispense with it \* \* \*” (*pp.* 413-14).

Lenine himself has made no secret of the fact that in his judgment the social revolution is to be accomplished by violence and points to the Russia of 1917-1918, not only as an illustration of the manner in which it must be accomplished, but also as proof that the fulfilment of the Marxian theory itself, the ending of the class struggle, can be brought about in no other way. This is not the view of an unbalanced and irresponsible firebrand, for Mr. Hillquit himself informs us that he "can testify particularly as far as Lenine is concerned, that he is a very sober and very moderate thinker and social worker, and by no means the irresponsible firebrand he is represented to be by the non-Socialists and the press" (p. 1467).

Lenine in his "*Soviets at Work*," as printed and issued by the Rand School of Social Science, declares that "every great revolution and especially a Socialist Revolution even if there were no external war is inconceivable without an internal war with thousands and millions of cases of wavering and of desertion from one side to the other and with a state of the greatest uncertainty, instability and chaos" (pp. 1468-69).

It is impossible within the reasonable limits of this discussion to refer to all the places in the record where this thought is repeated. They can all be summed up in the following from the publication on Bolshevism by the Jewish Socialist Federation of New York, one of the organizations, as we have heretofore explained, created and maintained under the provisions of the constitution of the Socialist party of America for the purpose of spreading the propaganda of the party among these members who are not acquainted with the English tongue but must be instructed in Yiddish, an organization that having been created for this purpose cannot be repudiated and disavowed by those who

initiated its activities in order that they might profit by them.

“Revolution is war, civil war, one class wars on the other for power, and as surely as the war cannot be conducted on sound democratic maxims, neither can a revolution be conducted in a democratic manner. And the revolution in Russia has not ended yet.

“The class struggle in time of revolution, has always assumed the inevitable form of a civil war, and a civil war is unthinkable without destruction, without terror and without the elimination of democracy. One would have to be a sickly sentimentalist not to understand or comprehend this” (p. 217).

It is necessary to look into the propaganda carried on by the Socialist party of America in languages other than English to find the real sentiments of the party frankly expressed, in refreshing contrast to the evasive and hypocritical sentiments expressed on the witness stand in this proceeding by the Assemblymen-elect and their chief witnesses, whose transparent purpose was to throw the dust of political and parliamentary and inoffensive acts into the eyes of this Committee and the correspondents of the newspapers represented in this Chamber.

Stress has been laid in defense of the Socialist position that the party has recently purged itself of all elements advocating violence. It presents itself before this Assembly as a mild mannered party seeking political reform, advocating humanitarian principles and practices, shocked at the idea that it should be identified and confused with the Communist Party of America. The public has come to understand the

purposes, the objects and method of the Communist Party through the prosecution and conviction and deportation of its members while the Socialist Party of America, masquerading as a right wing of the Socialist movement, has won a certain confidence, support and sympathy of some learned and distinguished advocates.

At this point it is necessary to remind the Committee that Morris Hillquit in an open letter published in the New York Call on September 22, 1919, said (p. 350):

“The split in the ranks of American Socialists raises an interesting question of policy. What shall be the attitude of the Socialist party toward the newly formed Communist organization?”

“Any attempted solution of the problem must take into account the following fundamental facts:

“First: The division was not created arbitrarily and deliberately by the recent convention in Chicago. It had become an accomplished and irrevocable fact many months ago and the Chicago gatherings did nothing more than recognize the fact and give the divergent movements concrete form and expression.

“Second: The division was not brought about by the differences on vital questions of principle. It arose over disputes on methods and policy and even within that limited sphere it was largely one of emphasis rather than fundamentals. The division within the ranks of American Socialism is an echo but by no means a reproduction of the Socialist movement in Europe.

“Third: The separation of the Socialist Party into three organizations need not necessarily mean weakening of the Socialists even though in a moment of destructive enthusiasm they have chosen to discard the name which stands for so much in

the history of the modern world. They are wrong in their estimate of American conditions, their theoretical conclusions and practicable methods, but they have not deserted to the enemy. The bulk of their following is still good Socialist material, and when the hour of the real Socialist fight strikes in this country, we will find them again in our ranks." (p. 350-51).

In a speech in the Brownsville Labor Lyceum, reported in the New York Call of September 22, 1919, Claessens made the following statements regarding the Socialist Party and the Communists:

"There is little real difference between the Socialist Party and the Communists. We want to get to the same place, but we are traveling different roads. The reason that they are being raided and we unmolested is not because we are considered conservative, but because we are more powerful than those little groups." (p. 1141).

The oneness of purpose, the unity of design between the Communist elements and the Socialist Party could not be more clearly demonstrated than by the letter addressed to all Socialist locals by Walter M. Cook, acting on behalf of the State Executive Committee of the Socialist Party in this State, and which is unchallenged and unexplained by the Assemblymen-elect, or their counsel. This letter is as follows (p. 811):

"New York State Committee, Socialist Party, Room 311, Dolan Building, 467 Broadway, Albany, N. Y.," at the top; "Walter M. Cook, Secretary," and on the left hand side, "Rochester Communist." Dated September 29, 1919.

"To All Socialist Party Locals, State of New York.

"Dear Comrades.— It has come to the attention of the State Executive Committee that a situation has developed in various sections of the State wherein members of the Communist labor parties, have been nominated for public office on the Socialist Party ticket.

"It is imperative that the working class shall stand as a unit in its struggle against the capitalistic class.

"You are urged to go forward with your campaign just as vigorously as ever regardless of the makeup of the ticket at the present moment. Whatever the personnel of the ticket may be, you will be voting for the Working Class and Socialism. Let us prove our devotion to the slogan, 'Workers of the World Unite! You have nothing to lose but your chains. You have a world to gain! Forget the personalities and wage the strongest campaign we have ever put up.'

"Yours for Socialism,

"State Executive Committee, Socialist Party,

"WALTER M. COOK,

*"Secretary."*

This letter shows clearly that the Socialist Party is willing to overlook slight differences of opinion with its proletarian comrades, and stands ready to co-operate with all elements which have as their objective the destruction of our form of government and the seizure of the power by the propertyless class. Violence and force are to be utilized whenever expedient; the passions of audiences are to be inflamed, their cupidity and envy stirred and every means, lawful and unlaw-

ful, honest and dishonest, known to unprincipled men, every method that human ingenuity can devise offering prospect of success is to be utilized and is within the contemplation of the Socialist Party of America in accomplishing the destruction of our government and the establishment of the International Socialist revolution.

Little space need be devoted here to the development of our *fourth* proposition. It is unnecessary to dwell at length in this brief on the fact that the political action of the party is responsive only to the dues-paying membership and that those who are elected to office are bound to follow the dictates of such membership and their compliance is compelled by drastic and comprehensive provisions in the constitution of the party.

The pertinent provisions in the party constitutions have been comprehensively considered and discussed in the preliminary brief already furnished to the members of the Committee. (*Preliminary Brief, Point II, pp. 10-17*).

Since that brief was written Mr. Branstetter, the national executive secretary of the party, has testified that sections 1 and 2 of article 8 of the State constitution, printed at page 1076 of the printed record, is still a recognized principle of the Socialist Party, those sections being as follows:

“Section 1. All candidates for public office or appointees for public office selected by the dues-paying membership of the Socialist Party of the State of New York or any of its subdivisions shall sign the following resignation blank before nomination is made official, or appointment is made final.

Form of resignation. Section 2. Recognizing the Socialist Party as a purely democratic organization in which the source and seat of all powers

lie in the dues-paying membership, as an elected (or appointed) official of the party it shall be my duty to ascertain and abide by the wish of the majority of the dues-paying members of my local or political subdivision." (p. 1546.)

Though an effort has been made to create the impression that such resignations are no longer required to be signed, a communication over the signature of the executive secretary of the national organization, dated August 25, 1916, indicates that such requirement had certainly not become obsolete at that time even under the practice of the party nationally. The pertinent portion of the letter is as follows:

"Candidates of the Socialist Party for public office are supposed to sign resignation blanks so that they may be recalled for cause. We maintain that in having such control over our candidates they will adhere more strictly to the program of the party and render more efficient service to society." (p. 1939).

It must not be forgotten that the State constitution contains another affirmation of the same principle that a public officer belonging to the Socialist Party must obey in his official acts the instructions of the dues-paying members. The provision is, that a member may be expelled:

"For failing or refusing when elected to a public office or while acting as a delegate to an official party convention to abide and carry out such instructions as he may have received from the dues-paying party organization or as prescribed by the state or national constitution." (p. 155.)

Moreover, these provisions have been retained in the party constitutions, notwithstanding the practice of the party, as explained by several Socialist witnesses, to revise its constitutions from time to time in order to keep them up to date. The State constitution containing the foregoing provisions has been revised every two years since 1900, the last revision being in 1918, but the provisions have never been repealed.

The experience of Hon. George R. Lunn of Schenectady, while serving as Socialist mayor of that city, shows the uncompromising determination of the party to compel obedience to these provisions, and gives point to what we are about to say that whether written resignations are actually signed or not is of no real importance, so long as the power of dictation remains.

In 1915 Mr. Lunn, who had signed the required resignation in 1911, on the evening before election at the time of his first candidacy for mayor of Schenectady (*p.* 353), repudiated his obligation to be further bound by this section of the Socialist State constitution (*p.* 354). With bitter opposition he was nevertheless nominated and elected. In spite of the fact that he had repudiated that particular part of the constitution, nevertheless so soon as he came to make up his appointments there was evident a determination to influence him in respect to them more than he was willing to be influenced (*p.* 355). What transpired is best told in his own language:

“I retained as superintendent of water a very efficient engineer, who was a Republican. This was very antagonistic to the Socialist Local. I appointed a Socialist who was enrolled but not a member of the dues-paying organization. To make a long story short, this was violently opposed and they threatened discipline, and I don't know

whether they were ordered to discipline me from New York, but they made charges against me as violating the Constitution, violating that part which I had repudiated before nomination. That being done, I was called to New York, trying to harmonize things. The State Committee were willing to pass over the appointment of the engineer to the water department, but they wanted me to discharge an enrolled Socialist who was not a dues-paying member for the reason that the Local claimed that he had voted for other than the Socialist nominees in certain particulars; that he had not voted for the Socialist candidate for Assembly and they wanted him discharged. I refused to discharge him and the discipline was attempted in the way of throwing me out of the organization, but they could not get the necessary two-thirds vote, so the New York organization, in order to discipline me, took away the charter from Local Schenectady and really fired the whole Schenectady contingent out and reorganized with those that would abide by the rules as regards control."

It is of not so much importance, however, whether written resignations are actually signed or not,—the vicious and unlawful thing is the agreement on the part of the elected or appointed official to obey in his official action the dictates of the dues-paying members of his organization. Such an agreement violates the essential principle of lawful, official conduct which calls upon the citizen who occupies an official position to discharge the duties of his office according to his own best judgment. That is the form of the oath itself which is taken by public officers under the Constitution of this State. A person elected to this Chamber is required to declare under oath before he assumes his

office as a member of Assembly that "I will faithfully discharge the duties of the office of Assemblyman according to the best of my ability." This oath cannot be carried out if the member subordinates his judgment on pending measures to the dictates of an extra-legal junta, committee, or organization, irresponsible to the law. To make such an agreement has been held in *People v. Squires*, 20 Abbott's New Cases, p. 368. to be a criminal conspiracy.

Under the above-quoted provisions of the Socialist Party constitution these five Assemblymen present themselves at the door of this Chamber not as the representatives of the thousands of voters who cast their ballots for their election, but as mere *proxies* for a small group of dues-paying members in no case exceeding 600 in number, many of whom are aliens, some of whom are minors, all of whom are disloyal.

It is no defense to this agreement to say that in previous terms some of the Socialist Assemblymen have not been ordered to vote in a way contrary to their own individual judgment. Such agreements, contravening public policy, are held to be illegal not by what has been actually done under them, but because of what may be done under such agreement. The citation of authorities upon this proposition is unnecessary because the law is familiar to every member of this Committee.

Lastly, we submit that it has been abundantly established by the overwhelming mass of testimony presented to this Committee, not merely to the extent of the preponderance of the evidence, but even, in view of the fact that it is from the declarations, proclamations, manifestoes, pronouncements and utterances of the party itself, its leaders and these Assemblymen and their witnesses, beyond a reasonable doubt that

the Socialist Party of America is in harmony and accord with radical revolutionary Socialists in all the countries of the world — to bring about a social revolution in this country as part of the international Socialist revolution, and that in accordance with the principles, program and tactics of world-wide radical revolutionary Socialism, it is seeking to weaken and make defenseless the government of state and nation against the attacks of foreign and domestic enemies by every unlawful means known to a resourceful, disloyal and anti-American organization inspired and led by the experienced radical revolutionary Socialists of the world.

We now come to deal with certain acts, conduct and declarations of these individual members of the Socialist Party who are the subjects of this investigation, establishing their unfailing obedience and submission to the dictates and program of their organization, and the complete approval of the principles and revolutionary object of the international Socialist movement.

In the analysis of the evidence presented to this Committee it has been sought to make clear not only that the objective of the Socialist party of America is the establishment of a dictatorship of the proletariat in this country but also that it seeks to attain its end by unlawful means. We have had occasion at appropriate places to refer to the utterances of several of the Assemblymen under investigation, but it seems wise at this point to review the evidence which has been presented with respect to each of them and particularly to recall their answers under cross-examination with respect to the vital question at issue. The purpose of this review is not so much to establish individual guilt as to demonstrate that these five Assemblymen seek seats in this Assembly in order that they may do their part in carrying out the program laid down by their party, and

assist in the realization of its principles. It cannot be denied that each of the Assemblymen-elect who has taken the stand in his own justification has clearly established his unqualified support of and submission to the will of his party.

**III. The acts, conduct and declarations of the five individuals, whose eligibility and qualifications are the subjects of this inquiry, establish their unfailing obedience, invariable co-operation and sympathy with and submission to the purposes of the Socialist Party of America and of the Third or Moscow Internationale.**

*(For speeches and declarations by these men introduced in evidence up to the preparation of the preliminary brief, see pp. 57-74 of that brief.)*

*Louis Waldman*

Mr. Waldman was a native of Ukrainia and became a naturalized citizen of the United States in January, 1915. It was then that he took the solemn oath of allegiance to this country in these words:

"I solemnly declare upon oath that I will support the Constitution of the United States and I do absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, particularly to the Czar of Russia of which I was before a citizen or a subject, and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

Two years after Mr. Waldman had taken this oath the United States was drawn into the great war and the citizens of this country were called to the high privilege of national defense. In this solemn hour of national crisis the Socialist party adopted its war proclamation and program which has here been discussed. Mr. Waldman testified that he approved this declaration and that he accepted it. He admitted that this program called upon the workers to refuse to support their government in this war but failed to see any inconsistency between this demand and the provisions of his naturalization oath in which he agreed to defend the Constitution and laws of the United States against all enemies, foreign or domestic, and to bear true allegiance to the same.

It will be borne in mind that prior to the declaration of war upon Germany by the United States the continued acts of wanton aggression against the citizens of the United States by Germany on the high seas and the interference by agents of that empire in the domestic affairs of this country for a long period threatened to draw this country into the conflict.

It was the contemplation of impending war with Germany that led this Assemblyman-elect to sign an anti-enlistment pledge in the following terms:

"I, being over eighteen years of age, hereby pledge myself against enlistment as a volunteer for any military or naval service in international war, offensive or defensive, and against giving my approval to such enlistment on the part of others."

Mr. Waldman stated that his best recollection was that he signed this some time in the early part of the year 1916, at least one year after he had taken his oath of allegiance to the United States (p. 1825). He saw

nothing inconsistent between the terms of this pledge and his oath of allegiance. In contrast with this asserted consistency of duty and performances, the following provisions of the St. Louis War Proclamation of the Socialist Party were called to his attention:

“The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself of economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare.”

The witness was asked (*p.* 1796): “Did you at any time ever protest against the sentiment expressed in the language that I have just read to you? A. I have not — this taken in connection with the rest of the resolution.”

It will not be necessary to review in detail the evasive responses made by Waldman to questions respecting the various provisions of the war proclamation of the Socialist Party, its various platforms and pronouncements. The witness before other audiences has not shown the same care, caution and solicitude, as he did before this Committee, to impress upon his auditors the innocuous, vacuous and wholly innocent meaning of words and declarations which to ordinary minds carry an unmistakable message of disloyalty, contempt for American institutions and treasonable purposes. It is this witness who, having just been chosen to represent a district in an American Legislature, eagerly participated in a meeting called for the purpose of celebrating the second anniversary of the Russian revolution. It is this witness who urged his hearers to join the Socialist move-

ment in America if they revered their Russian comrades, if they applauded Lenine and Trotzky, if they believed in the worthiness of their cause, in the accomplishment of their work in order to make America more like Russia is to-day.

Bearing in mind that at the time of uttering this speech the Socialist Party had, at its National Emergency Convention held at Chicago in September, 1919, already committed itself to an affiliation with the Third Internationale under the leadership of Lenine and Trotzky, the real meaning of this plea cannot be clouded by the statement of this witness to this Committee. He was not satisfied to express his admiration for the Russian regime, but must needs convince his hearers that there were but two courses of action open to them. He presented but two alternatives. "We must select between two alternatives, either Russia lives and conquers the world" — at this point he remembered that there was some government representative sitting in his audience recording his utterances, so he hesitated a moment and said — "Not Russia conquers the world, but its ideas and philosophy, worthy of the Russian government today should conquer the world — either that or the ideas and the philosophy of Gary and Wilson and Palmer, Lloyd George and Clemenceau is to conquer the world. Between the two, for my part and for the part of thousands of Socialists now battling in America today, we choose to stand by the ideas and philosophy and program and principles of Lenine and Trotzky as those we approve."

This insistence that we must institute the Russian system in place of our own comes with ill-grace from Mr. Waldman. He has been in this country only since the year 1909, when he came to us from Ukraina, an

ambitious, industrious and precocious boy. He was unable to speak English. Judging by the nature of the employments in which he was engaged at first he was probably poor. He was accorded, as is every one else in this land, the protection of our laws and the opportunities for advancement afforded by our institutions. He accepted the protection of the former and the benefits of the latter and especially of our educational system. The result was merely another instance of the beneficent system under which we live, so frequently exemplified in cases of this kind, and is probably unparalleled in any other country on the globe.

In seven years after this non-English speaking young man had arrived in this country, he had qualified himself for the engineering profession by a course of study in an honorable institution of learning, established in New York city for the benefit of industrious young men of limited means by a capitalist named Peter Cooper, and had been given the degree of bachelor of science in civil engineering by that institution. In the same year he successfully passed the civil service examinations and was appointed to a position in the bureau of tunnels, engineering department of the city of New York. In the following year, 1917, when he had been in the United States only eight years, he was elected a member of the Assembly of this State. He admitted, as he must have done, that no obstacle had been placed in the way of his development or the realization of his ambitions by the government of the United States or of this State.

Everyone must commend his ambition and industry. Everyone must likewise condemn the base ingratitude which inspires a demand that we substitute the institutions of Soviet Russia for the free system under which he has developed.

It would be unnatural if some resentment were not manifested at the conduct of the members of this party, typified by the example before us, willing at all times to accept sacrifices of blood and treasure and all the benefits of our free institutions so dearly purchased and maintained, and repudiating and disavowing, while receiving such benefits, any obligation to contribute to the support of our institutions,—and even pledging themselves not only to deny such support but to obstruct and resist the nation in its hour of peril and danger.

Before a sympathetic audience Waldman has given expression to his real meaning and real purpose. It is to the program of Lenine and Trotzky that this Assemblyman-elect has committed himself. That program is before the Committee in detail. It is set out in clear and unmistakable terms in the Manifesto of the Moscow Internationale and a comparison of the provisions of that program with the utterances of the various leaders of the Socialist Party in America, their official pronouncements and such utterances of these Assemblymen-elect as have come into our hands conclusively prove that the latter are in full accord with that program. Can it be said that a man who has boldly and openly asserted his allegiance to such a program can at the same time solemnly pledge himself to support the Constitution of the United States and of the State of New York? Such a presumption is unconceivable.

*August Claessens and Charles Solomon*

Assemblyman-elect Waldman has spoken merely as the mouthpiece of his party. Assemblyman-elect Claessens in different language but with equally clear intent expressed himself as committed to the program of the Russian proletariat involving the destruction of

American institutions, American ideals and the democratic form of government created by the founders of this Republic. The evidence shows that Assemblyman Claessens sat upon the same platform with Alexander Trachtenberg while the latter urged upon his hearers the lessons to be drawn from the Russian revolution. We quote his words:

“It seems to me as it seems to the Socialists of America that this establishment of the workers’ government in Russia proves one thing, that if the workers are organized, organized politically and economically, and organized in a way we have to understand not only their immediate conditions, not only their immediate requirements, but understand the great purpose of an organized labor movement, with them to understand the great mass of the working class and what they have to perform in this world — then we can have not only a Soviet Russia, but a Soviet government in England, Germany, and a Soviet America just as well” (p. 271).

It was in response to this declaration by Comrade Trachtenberg that Assemblyman-elect Claessens said:

“Yes, as Comrade Trachtenberg said, when we read and when we hear these things, we immediately begin to grasp the significance of what Socialists call the social revolution” (p. 229).

The Committee has seen the witness Claessens on the stand. They have heard his attempt to justify his declarations on the plea that they were uttered under the strain of great emotion, occasioned by a political campaign, but it must be observed that without exception

his words reflect with unerring fidelity the official pronouncements of his party as they have been presented to this Committee upon this investigation. The nervous strain he labored under at that time did not cause him to forget a simple argument which would stimulate in the minds of his hearers a contempt for their fellow citizens, and an abhorrence of our institutions, and undermine their confidence in the administration of law in this great commonwealth. Nor did he forget his allegiance to the Soviet regime of Russia, for he seized every opportunity and employed every trick of oratory to impress upon his hearers that the ignorant, deluded and coerced mujiks of the steppes of Russia were nobler creatures, more enlightened beings than our own citizens, the great mass of whom it pleased him to describe as bestial. We do not wonder that Mr. Hillquit saw fit on direct examination to call the witness's attention to the fact that one less speech on his part would not be a loss to the community.

If the Committee is to believe the modest protestations of these Assemblymen, that neither they nor their party for an instant countenanced the use of violence, it will be necessary for this Committee to prepare a glossary giving new and recondite definitions to English words which in ordinary use have plain and unmistakable meaning. In this Chamber we are adroitly told that the Socialist Party seeks mild and beneficial reform to ameliorate the condition of the industrial workers in our country, but before his own audience Assemblyman-elect Claessens, stripped of his present hypocrisy, declares the true purposes of his party. He says:

“If we thought for a minute it was merely a dream on our part, a great political controversy, until we have a majority of men elected, and then, by merely that majority, declare the revolution, if

any of you smoke that pipe dream, if that is the quality of opium you are puffing now, give it up, give it up" (*p.* 236).

Mr. Claessens, although enthusiastic, is always cautious, and does not in exact words tell his hearers what means will be employed to bring about the revolution. But this Committee must remember that this statement was made at a meeting called for the purpose of celebrating the second anniversary of the Russian Revolution, that each of the speakers declared his support of the program of Lenine and Trotzky, that the party of which this man is a member had just affiliated with the Moscow Internationale, and that that program was and is a program of force.

In the utterance which we have just quoted Claessens has made clear that the Socialist Party does not propose to wait until it has gained the adherence of the majority of the people of this country. The leaders of that party have clearly shown in their every pronouncement that they realize that the social revolution, if it is to come at all in this country, cannot wait until it is the demand of the majority.

There has been an adroit use of words; the Committee has been treated to fine distinctions; it has been told that a revolution is merely a change; that that change in the Socialist conception need not be brought about by force, but if the speeches of the witnesses for these Assemblymen and the writings of the leaders of the Socialist Party are read, it will be seen that they differentiate the revolution in the making from the revolution in theory, and the speech of Comrade Oneal, so highly extolled by Assemblyman-elect Solomon, contains this appeal to the use of force:

"Every tremendous appeal in the world's history that has brought about new institutions, every

great revolution, the French Revolution, the American Revolution, the Russian Revolution — all such revolutions have been accompanied with more or less violence and it is impossible to dispense with it \* \* \*” (p. 414).

We repeat these references at this place in order to emphasize the fact that the Assemblymen-elect, by their own utterances and by their indorsement of statements made in their presence, have actually sought to carry conviction to the minds of the people in the congested districts of our great city that the institutions of this country must be destroyed, that at the present moment they are administered for the sole purpose of oppression, that the only hope of our own country, suffering from our so-called capitalistic system of government, is the inspiration of Soviet Russia and that the change to a form of government such as is now administered in Soviet Russia must be accomplished in this country and that such accomplishment can only be by means other than parliamentary.

The peaceful workers of our crowded city districts would hesitate to attack the institutions of this great Republic. It is therefore necessary to instil prejudice, hatred and contempt for the great mass of the American people and to villify and denounce those patient and patriotic leaders of organized labor who devoted themselves to guiding the energy of the toilers of America into patriotic channels during the late war. It is necessary to lash the prejudice thus manufactured into passion. These are the unmistakable purposes of the speeches made by the Socialist Assemblymen to which the Committee's attention has been directed. There is nothing in them that would produce other results than those we have described. There is not a line, a sugges-

tion or a statement in any of them that can be construed into a support of the United States of America or the State of New York.

Therefore, by their acts, conduct and declarations these men have established their unfailing obedience, invariable co-operation and sympathy with and submission to the purposes of the organization of which, and not of the People of the State of New York, they are the representatives.

*Samuel Orr and Samuel A. deWitt*

Two other Assemblymen-elect, Samuel Orr and Samuel A. deWitt, stand at the threshold of this House claiming their right to take their seats as lawmakers for the People of this great State. With respect to these the record shows that they are members in good standing of the dues-paying organization of the Socialist Party of America; that they are pledged to support the principles and program of their party; that they have accepted the obligation of representing that party in a legislative body and have assumed the task of furthering its purpose. Day by day they have been in this Chamber; they have listened to the testimony of witnesses; have heard expounded the official utterances of their party and yet have sat mute. By their silence they have acquiesced in the utterances of their party and admitted the truth of the accusations brought against them and must suffer from every hostile presumption arising from their silence.

One other feature of the defense of these men remains to be considered here.

The Assemblymen-elect have been at great pains to review in detail their legislative activity; they have sought to show that while members of this Assembly they conducted themselves after the manner of every

other member of the Assembly, as if the accusations against them carried a presumption that this would not be the case. They were at great pains to impress upon the members of this Committee that they took their seats in an orderly manner; that they introduced bills after the manner of other Assemblymen; that they debated upon questions from the floor; that they employed language readily understood by their fellows; that they voted upon bills introduced by others in conformity with the general rule and custom of a deliberative body.

The great stress laid by the Assemblymen upon this normal and human action seems to have been for the purpose of removing from the public mind an imaginary charge that these men are wild and ungoverned spirits who would destroy legislative decorum and ignore legislative procedure if admitted to this Chamber. No such presumption was carried by the charges laid against these five Assemblymen-elect. It was to be presumed that to carry out their purposes they must fit into the legislative scheme with the least possible friction; that they must give the appearance of diligence and attention to legislative duty and be equipped at the close of the legislative session with some excuse to appeal to the great masses of the voters of their districts who are not members of the dues-paying party organization for their support. Any other policy on the part of each of these men as have heretofore been in the Assembly would have left them for their constituency only the obscure and insignificant body of dues-paying members.

## CONCLUSION

Every charge made against the five Socialist Assemblymen in the resolution adopted by the Assembly at the opening of the session by the vote of 140 ayes to 6 noes, and thereby accepted as the basis for the inquiry into the eligibility and qualifications of these five men to seats in the Assembly, has been established beyond question.

Every charge material to the inquiry into the eligibility and qualifications of these five men, contained in the statement made by the Chairman of the Judiciary Committee of the Committee's "understanding of the matters that are to be brought up for consideration of the Committee" has likewise been established beyond question.

Counsel for the Judiciary Committee, therefore, respectfully recommend that the Committee report to the Assembly substantially as follows:

"That Louis Waldman, August Claessens, Charles Solomon, Samuel A. deWitt and Samuel Orr are and each of them is disloyal to the United States of America and to the State of New York for which disloyalty, and because of all the other facts and reasons above set forth, they are and each of them is ineligible and disqualified to occupy seats in the Assembly of the State of New York as members thereof;

That because of such ineligibility and disqualification they are and each of them is incapable of taking the oath of office prescribed by the Constitution of the State according to the real intent and purpose of the constitutional provision requiring the taking of such oath;

That by formally subscribing to said oath their position in view of their ineligibility and disqualification is

no different from what it would have been had they refused to take the said oath;

That they therefore are not entitled to have or to hold seats in the Assembly and that the seats to which they are elected be declared vacant.

Respectfully submitted,

CHARLES D. NEWTON,

*Attorney-General of the State of  
New York,*

MARTIN CONBOY,

ELON R. BROWN,

ARTHUR E. SUTHERLAND,

JOHN B. STANCHFIELD,

HENRY F. WOLFF,

ARCHIBALD E. STEVENSON,

SAMUEL A. BERGER,

of Counsel.

March 24, 1920.

## REPORT OF THE COMMITTEE

Before the Judiciary Committee of the Assembly of the State of  
New York

In the Matter  
of the  
Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT, SAM-  
UEL ORR and CHARLES SOLOMON to  
retain their seats in the Assembly.

*To the Assembly of the State of New York:*

The undersigned, members of the Judiciary Committee, beg to report as follows:

This investigation was instituted by a resolution adopted by the Assembly of the State of New York on January 7, 1920, referring to the Judiciary Committee the question of the qualifications and eligibility of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon, and each of them respectively, to seats in the Assembly.

The resolution in its preamble contains statements of fact, which, together with the statement of the Chairman of the Committee, made at the opening of the session of the Committee on January 20, 1920, were treated and considered in this investigation as the charges or complaint on which the proof was taken.

So far as such charges are pertinent to the examination of the case they are as follows:

That the Socialist Party of America at its convention held in the city of Chicago, Ill., in the month of August, 1919, declared its adherence to and solidarity with the revolutionary forces of Soviet Russia and pledged itself and its members to the furtherance of the International Socialist Revolution;

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That by such adherence and declaration made by the said party, the said party has indorsed the principles of the Communist Internationale now being held at Moscow, Russia, which Internationale is pledged to the forcible and violent overthrow of all organized governments now existing;

That Section 5 of Article II of the Constitution of the Socialist Party of America provides that each member of the Socialist Party of America must subscribe to the following: "In all my political actions, while a member of the Socialist Party, I agree to be guided by the Constitution and platform of that Party";

That Section 13, Subdivision A, of the State Constitution of the Socialist Party of the State of New York provides: "A member may be expelled from the Party, or may be suspended for a period not exceeding one year, for the following offenses: (f) for failing or refusing, when elected to a public office \* \* \* to abide and carry out such instructions as he may have received from the dues-paying organization or as prescribed by the State or National Constitution";

That such instructions may be given by an Executive Committee made up in whole or in part of alien enemies owing allegiance to governments or organizations inimical to the interests of the United States and the People of the State of New York;

That the National Convention of the Socialist Party of America held at St. Louis from about April 7 to about April 14, 1917, did duly adopt resolutions that the only struggle which would justify taking up arms is the class struggle against economic exploitation and political oppression, and particularly warns "against the snare and delusion of so-called defensive warfare," and such resolutions further provided "as against the false doctrine of national patriotism we uphold the ideal of international working class solidarity";

That the Socialist Party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of the said war and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.

That the said Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon, members of the Social-

ist Party of America, having been elected upon the platform of the Socialist Party of America, have thereby subscribed to these principles and its aims and purposes, against the organized government of the United States and the State of New York, and have been actively associated with and connected with an organization convicted of a violation of the Espionage Act of the United States;

That the said Assemblymen are members of a party, or society, whose platform of principles and whose doctrine as advocated today call for and demand the complete destruction of our form of government, by the fomentation of industrial unrest, the bringing into play of force and violence and direct actions by the mass; that the said Assemblymen affiliated with that party or society and have subscribed to and advocated such principles and are in favor of the absolute substitution of minority for majority rule; that they and the party they represent, are in hearty accord and sympathy with the Soviet Government as it exists in Russia today and have declared their solidarity therewith; that in 1917, when our country was at war with Germany and summoned the strength of the people to that great struggle, the party or society to which these men belonged and to whose program they had subscribed in open convention, and with calculated deliberation, denounced the war as criminal, its purposes capitalistic, its motive profiteering, and pledged every man in that party to oppose the war and all the means advocated by the Government for carrying on the war in every possible way; that the men herein named by voice and vote, in public and in private, opposed every measure intend to aid the prosecution of the war to a successful conclusion, and gave aid and comfort to the enemy; that in August, 1919, after the schemes and program of the Russian Soviet Government were fully known, and their practices and principles fully realized, the Socialist Party of America, of which these men are members, in deliberative convention, declared their allegiance to and solidarity with such Russian Soviet Government; that they secured their nomination and procured their election under the pretense to the people that they were merely availing themselves of a legally established means of political representation, whereas in truth and in fact this was done to disguise and cover up their true intent and purpose to overthrow this Government, peaceably, if possible, forcibly, if necessary; that these Assemblymen, with others, engaged in a large and well

organized conspiracy to subvert the due administration of the law and to destroy the right to own and hold private property honestly acquired, and to overturn the whole fabric of our constitutional form of government.

These allegations were treated in the investigation as a complaint, under the practice of pleading obtaining in the courts of this State, and the Assemblymen, through their counsel, in contemplation of the Committee, answered said complaint, denying the aforesaid allegations. The Judiciary Committee, pursuant to the instructions contained in the aforesaid resolution, proceeded to take testimony of the issues thus raised, and in accordance with the direction contained in said resolution, have conducted the required investigation of the qualifications and eligibility of the five Assemblymen to seats in the Assembly.

The Committee were empowered, in conducting such investigation, to subpoena and examine witnesses and documentary evidence. The Committee have had before them and have heard the testimony of a great number of witnesses, including three of the five Assemblymen. Some of these witnesses appeared voluntarily, others attended in obedience to the compulsory process which the Committee was authorized to employ to secure such attendance. More than two thousand pages of printed testimony appears in the record.

In addition, the Committee have had before them and give due consideration to a great mass of documentary evidence, some of which has been printed in the minutes of the daily sessions. Other documents in evidence have been printed in separate form (Exhibits 41, 95, 98; testimony of L. C. A. K. Martens, taken before the Joint Legislative Committee Investigating Seditious Activities; Assemblymen's Exhibits 2, 3, 10 and 14), and the number of printed pages of these separately published documents is about 500.

Sessions of the Committee, during which counsel and witnesses were heard, were held on January 20 to 22, 27 to 30; February 3 to 5, 10 and 11, 17 to 20, 24 to 27; March 3 to 5, and March 9.

The inquiry on the part of the Committee was conducted by the Attorney-General of the State of New York and associate counsel. At the conclusion of the testimony or close of the case four days were devoted to the final arguments of counsel for the Assemblymen and counsel for the Committee. Permission was given for the submission of briefs, and such briefs, containing an elaborate

and comprehensive review of the facts and discussion of the law, have been received by the Committee.

The Committee have also had the benefit of preliminary briefs, from counsel associated with the Attorney-General, Counsel for the Socialist Assemblymen, and from a special committee appointed by the Association of the Bar of the City of New York, the last having been submitted on January 20, 1920, at the opening session of the Committee and before the taking of testimony. The Committee have, therefore, in addition to the arguments on law and fact presented by those representing what may be called the contending interests, also had the benefit and advantage of the opinion of the distinguished members of the Bar of New York City who constituted the special committee of the Bar Association of that city, on certain principles of the law relating to parliamentary bodies.

The Committee have given due consideration to the testimony and documentary exhibits, as well as to the arguments of counsel and the instructive briefs which have been submitted, and in accordance with the resolution adopted by the Assembly, it now begs to report to the Assembly "its determinations as to the qualifications and eligibility of the said Louis Waldman, August Claessens, Samuel A. de Witt, Samuel Orr and Charles Solomon, and each of them respectively, to a seat in this Assembly."

Section 10 of Article III of the Constitution of the State of New York provided that "Each House shall \* \* \* be the judge of the elections, returns and qualifications of its own members."

This provision is identical with section 5 of article 1 of the Constitution of the United States.

Section 1 of Article XIII of the Constitution of this State directs that:

"Members of the Legislature and all officers, executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New York,' " etc.

Section 3 of Article XI of the Constitution of the United States directs that:

"The Senators and Representatives before mentioned and the members of the several state legislatures and all executive

and judicial officers of the United States and of the several states shall be bound by oath or affirmation to support this Constitution," etc.

Section 1 of Article XIII of the Constitution of this State, prescribing the form of the oath to be taken by members of the Legislature, directs that:

"No other oath, declaration or test shall be required as a qualification for any office or public trust."

Section 3 of article VI of the Constitution of the United States, exacting from Senators and Representatives and members of State Legislatures an oath or affirmation to support the Constitution of the United States, directs that:

"No religious test shall ever be required as a qualification to any office or public trust under the United States."

The Federal and State Constitutions, therefore, contain provisions, relating to the power of the respective Houses as the judges of the qualifications of their members and regarding the nature of the oath to be taken by their members, that, to all intents and purposes, are identical. There is a difference between the provisions in the respective constitutions limiting the power of requiring any other additional oath. While the Federal Constitution declares that "No *religious* test shall ever be required as a qualification to any office or public trust under the United States," the Constitution of this State provides that "No *other* oath, declaration or test shall be required as a qualification for any office of public trust."

The courts of this State have held that this prohibition in our Constitution excludes the imposition of any oath, declaration or test intended to establish the possession of any religious, political or other opinions and beliefs, having nothing to do with essential qualifications (*People ex rel. Rogers v. Common Council of Buffalo*, 123 N. Y. 173; *Rathbone v. Wirth*, 150 N. Y. 459, 484).

The important consideration is that *the test required by each Constitution, National and State, is the same, viz. : support of the Constitution of the United States, to which we have added support of the Constitution of this State.*

Therefore, the precedents in the Houses of Congress, wherever that qualification for membership to be attested by the oath re-

quired by each Constitution has been involved, are entitled to, and we accord them great weight in the consideration of the question involved in this proceeding, whether loyalty is a recognized qualification and disloyalty a disqualification and disability for membership in a legislative body.

Before we come to a consideration of those precedents it is proper to state certain fundamental principles that are abundantly established by judicial decisions.

The right of the Assembly to exclude and expel members is fundamental, inherent and exclusive and would undoubtedly exist even in the absence of constitutional or statutory provisions, such provisions being generally regarded as merely declaratory of the power and inserted *ex majori cautela* (*People ex rel. Hatzel et al. v. Hall*, 80 N. Y. 117 at pp. 121-122 of Opinion of the Court, per Folger, J.; *People ex rel. McDonald v. Keeler*, 99 N. Y. 463, 481).

Such power is declared in the Constitution and statutes of this State. The power to exclude for disqualification is necessarily implied in the power declared by Section 10 of Article III of our State Constitution. Section 3 of the Legislative Law of this State is merely declaratory of the power of expulsion.

Moreover, the legislative body is the sole judge of the exigency which may justify and require the exercise of the power of expulsion (*Hiss v. Bartlett*, 3 Gray 468; *French v. Senate of the State of California*, 146 Cal. 604; *State v. Gilmore*, 20 Kan. 551; *Cooley's Const. Lim.*, p. 190; *Stimson's Fed. & State Const. of the U. S.*, Sec. 276; *Cushing's Law and Pr. of Leg. Ass.*, pp. 250, 269; *Von Holst's Const. Hist. of U. S.*, p. 102.)

Usually the only effect of constitutional provisions relating to either power is to impose limitations upon its exercise, as in the case of the requirement in the Federal Constitution and in some State Constitutions, that the concurrence of two-thirds of either House is necessary to the exercise of the power of expulsion, and, in the case of the violation of the constitutional oath by participation in rebellion, the concurrence of two-thirds of each House of Congress, for the removal of the disability of disloyalty (*Const. of U. S.*, Third Section, Fourteenth Amendment). In the absence of constitutional provision in this State, no limitation exists on the power of expulsion (*Cushing's Law & Pr. of Leg. Ass.*, p. 269). No limitation can be imposed by statute, since the inherent and exclusive power of a Legislature may not

be thus restricted by any limitations imposed by a preceding legislature. Therefore, this House has power either to exclude or expel by a majority vote.

Proceeding now to the consideration of congressional precedents, for the purpose of ascertaining whether from them can be formulated a guiding rule for application to the facts in this case, we deem it worthy of note that the rule which we have adopted is not only declared in well-considered parliamentary precedents, but is in harmony also with the understanding of the rule on the subject, expressed in the early stages of this inquiry by counsel for the five Assemblymen in the discussion of one of the charges contained in the resolution adopted by the Assembly.

It was then conceded that if the conduct alleged in such charges were proved, it would necessarily result in the exclusion from the Assembly of these five men.

The Statement of counsel, indicating a clear understanding of the law and a correct analysis of the charge, is as follows:

“Your last charge I shall refer to, and it is No. 7. It is the only charge which I consider has any merits. You say: ‘The Socialist Party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the prosecution of the said war, and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.’

“That is a fairly definite statement of what the farmers of this may have considered to be the truth. That is an issue we are quite willing to meet and I think it will be an issue that they will regret they ever suggested, for we are very certain and positive no proof, no act of the declarations of the party, either in its more prominent councils, or its locals will be found to verify in the slightest degree that statement.

“If this party advocated and urged its members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in the production of munitions of war and did thereby stamp the said party and all its members, and so forth, if that is proven against the party,—and these men are members of it,—wa

will have nothing to say except leave these chambers in humiliation" (p. 103).

The rule applicable to the state of facts developed upon this inquiry and adopted by us is well expressed in the report submitted by the Committee on Privileges and Elections in the investigation of the charges against Senator C. Reed Smoot, from the State of Utah (*Senate Documents, Vol. 27, p. 467*:

"The Constitution provides (Art. I, Sec. 5, Par. 1) that 'Each House shall be the judge of the elections, returns and qualifications of its own members.' It is now well established by the decisions of the Senate in a number of cases that in order to be a fit representative of a sovereign State of the Union in the Senate of the United States one must be in all respects obedient to the Constitution and laws of the United States and of the State from which he comes, *and must also be desirous of the welfare of the country and in hearty accord and sympathy with its government and institutions.* If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation or its government, he is regarded as being unfit to perform the important and confidential duties of a Senator, and may be deprived of his seat in the Senate, *although he may have done no act of which a court of justice could take cognizance.*"

While Smoot was neither expelled nor excluded from the Senate, there being a majority against the recommendation of the Committee for exclusion, we regard the foregoing statement of principle quoted from the report of the Committee as expressing the proper rule relating to the qualifications for membership in a legislative body, and we further believe that such rule is abundantly established by parliamentary authority (report of Select Committee on Resolution to expel *Benjamin Stark* from the Senate of the United States, signed by Senators Daniel Clark, J. M. Howard, Joseph A. Wright and John Sherman; *Compilation of Senate Election Cases, Senate Documents, Vol. 9, 62nd Congress, Third Session, pp. 292 to 296*; Report of Committee on Elections, House of Representatives, on qualifications of members-elect from Kentucky, 1 *Hinds' Precedents of the House of Representatives, p. 443*; Debate in House of Representatives on

case of *John Young Brown*, Member-elect from Kentucky, 1 *Hinds' Precedents*, pp. 444-448; speech of Charles Sumner in case of *Philip F. Thomas*, Senator-elect from Maryland, particularly as bearing upon the meaning and effect of the Third Section of the Fourteenth Amendment to the Constitution of the United States; and all proceedings in that case resulting in the expulsion of Thomas, 1 *Hinds' Precedents*, pp. 466-470; case of Brigham H. Roberts, excluded from the House of Representatives, 1 *Hinds' Precedents*, pp. 518-560; case of *William Blount*, Senator from Tennessee, deprived of his seat in the Senate because of "conduct inconsistent with his public trust and duty as a Senator, 2 *Hinds' Precedents*, pp. 815-822, containing a report of Special Committee rendered by John Quincy Adams of Massachusetts; case of *Jesse D. Bright*, expelled from the United States Senate, 2 *Hinds' Precedents*, pp. 824-825; *Credit Mobilier* cases in House of Representatives, *Hinds' Precedents*; case of *Victor L. Berger*, report of Special Committee of the House of Representatives submitted October 24, 1919.)

The same principle has been recognized in this State (case of Jotham P. Allds, 16 *Senate Documents*, Session 1910, p. 2068; case of Justice George G. Barnard, in the Court on the Trial of Impeachments of this State; case of William Sulzer, Governor of this State, Vol. II, *Proceedings in the Court of Impeachments*, Peo. v. Sulzer, 1913, p. 1686).

The provision in the Constitution of this State that "No other oath, declaration or test shall be required as a qualification for any office of public trust" than the oath to support the Constitution of the United States and the Constitution of the State of New York (Art. XIII, Sec. 1), does not deprive the Assembly of the constitutional power given by the same Article and Section to exclude disloyal persons from membership in this body.

This constitutional provision was intended to be and is a prohibition upon the exacting of a test of religious, political or other qualification, extraneous in character to the essential qualifications for membership expressed in the rule which we have adopted. Any other interpretation would place an utterly indefensible interpretation upon the language of the Constitution, make it impossible for the members of the Assembly, in passing upon qualifications for membership in this body, to discharge the

obligation of their own oath to support the Constitution of the United States and the Constitution of this State, and render this Assembly and the Government of which it is a constituent part powerless to preserve itself; for any other interpretation would permit anyone, not matter how disloyal, incompetent, or utterly unfit in any respect he might be, to be admitted to this body upon the accomplishment of what would then become the merest formality, viz.: the taking, truly or falsely, comprehendingly or without any understanding, of the constitutional oath of office.

The plain purpose of the constitutional provision under consideration is to prohibit the requiring or imposing of arbitrary qualifications not in any way connected with eligibility or fitness for an office of public trust under this State. It was never intended as a declaration that the disloyal and unfit, if elected to the Legislature, must be accepted as members, nor to guarantee an indefeasible title, during the term of office, to a seat in such body, to a member whose disloyalty or unfitness renders his membership therein a menace to those institutions which the members of the Legislature are sworn to support and defend.

The fallacy with which we are dealing is a fundamental one involving so plainly a contradiction in terms that it refutes itself. The Constitution can not be distorted into a means of intrenching in our legislative halls the foes of our government nor treated as a bomb-proof shelter from which the enemies of our country can launch their attacks.

The rule adopted by us has a twofold application in this case:

First: It applies to the group or party of men with which these Assemblymen are united by the solemn obligation of a pledge. If this group or party advocates and is committed to principles and policy that violate in essential particulars the rule above stated, membership therein, inasmuch as it involves acceptance of and adherence to such principles and participation in such program, necessarily disqualifies from membership in this legislative body any individual member of that group laboring, by virtue of such membership, under a like disability.

On this first proposition we are again in harmony with the views of counsel for these men and the rule as laid down by the Committee in the Smoot case. Counsel's statement is as follows:

"If this party advocated and urged its members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in

the production of munitions of war, and did thereby stamp the said party and all its members, and so forth, if that is proven against the party, and these men are members of it, we will have nothing to say except leave these chambers in humiliation. Those of us who know the record of the party are only induced to smile at so unfortunate a statement growing out of such inadequate information." (p. 103.)

The Senate Committee in the Smoot case held him responsible for the conduct of the organization to which he belonged, and the report contains an elaborate review of authorities in support of such holding (*Compilation of Senate Election Cases, Senate Documents. Vol. IX, 62d Congress, Third Session, pp. 942-944*).

Second.—The disqualification of any individual for reasons personal to himself of course disqualifies and renders him ineligible for a seat in the House quite apart from the consequences of membership in the party.

It was conceded on the hearing that Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon are, each of them, dues-paying members of the Socialist Party of America, and that when they became members they subscribed to the following pledge:

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class constituting themselves into a political party, distinct from and opposed to all parties formed by the propertied classes, hereby declare that I have severed my relations with all other parties, and I endorse the platform and constitution of the Socialist Party, including the principle of political action, and hereby apply for admission to membership in said party," etc. (p. 161).

Their membership in the party has, in the case of each of these five men, continued at least since 1917 and involves as a consequence of the declaration just referred to, the following, constituting a part also of the pledge of membership as contained in the present Constitution:

"I am opposed to all political organizations that support and perpetuate the present capitalist profit system, and I

am opposed to any form of trading or fusing with any such organization to prolong that system.

*"In all my political actions, while a member of the Socialist Party, I agree to be guided by the constitution and platform of that party" (pp. 1048-1049).*

The State Constitution of the Socialist Party, under Article VIII, "Miscellaneous Regulations," which has been continuously in force since these men became members of the party, contains the following provisions:

"Resignations of Candidates and Appointees. Section 1.—All candidates for public office or appointees to public office selected by the dues-paying membership of the Socialist Party of the State of New York or any of its subdivisions shall sign the final resignation blank before nomination is made official or appointment is made final.

"Form of Resignation. Section 2.—Recognizing the Socialist Party as a purely democratic organization in which the source and seat of all powers lie in the dues-paying membership, as an elected (or appointed) official of the party, it shall be my duty to ascertain and abide by the wish of the majority of the dues-paying members of my local or political subdivision.

"To the end that my official acts may at all times be under the direction and control of the party membership I hereby sign and place in the hands of Local — to which I may be elected (or appointed), such resignation to become effective whenever a majority of the local shall so vote.

"I sign this resignation voluntarily as a condition of receiving said nomination (or appointment) and pledge my honor as a man, a Socialist, to abide by it" (pp. 156-157).

Article I of the State Constitution contains the following:

"Suspension and Expulsion.—Sec. 13. (a) A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses:

\* \* \* \* \*

"(f) *For failing or refusing, when elected to a public office or while acting as a delegate to an official party con-*

*vention, to abide and carry out such instructions as he may have received from the dues-paying party organization or as prescribed by the state or national constitutions" (p. 1067).*

These provisions, despite frequent changes in the Constitution, have been retained and the resignation requirement certainly in force nationally as late as August 25, 1916 (p. 1939).

Article 8 of the State Constitution contains the further provision under the heading, "Appointment for Non-Competitive Offices":

"Section 4. Elected Socialist officials shall submit the name of the proposed or contemplated appointments for heads of departments, members of Mayor's Cabinets, Commissioners, Deputies and Members of Commissions or any other appointees to position of administration or executive character for the approval of the local or county organizations. If said local or county organization shall disapprove of any proposed appointment, it may submit its choice of appointment to the said elected official. In case of further disagreement, the local or county organization and the elected officials have the right to appeal to the State Executive Committee" (p. 157).

In 1915, when George R. Lunn, of Schenectady, was serving as Socialist mayor of that city, he had an experience, showing the uncompromising determination of the party to compel obedience to these provisions. It is best told in his own language:

"I retained as superintendent of water a very efficient engineer, who was a Republican. This was very antagonistic to the Socialist Local. I appointed a Socialist who was enrolled but not a member of the dues-paying organization. To make a long story short, this was violently opposed and they threatened discipline, and I don't know whether they were ordered to discipline me from New York, but they made charges against me as violating the Constitution, violating that part which I had repudiated before nomination. That being done, I was called to New York, trying to harmonize things. The State Committee were willing to pass over the appointment of the engineer to the water department, but they wanted me to discharge an enrolled Socialist who was

not a dues-paying member for the reason that the Local claimed that he had voted for other than the Socialist nominees in certain particulars; that he had not voted for the Socialist candidate for Assembly and they wanted him discharged. I refused to discharge him and the discipline was attempted in the way of throwing me out of the organization, but they could not get the necessary two-thirds vote, so the New York organization, in order to discipline me, took away the charter from Local Schenectady and really fired the whole Schenectady contingent out and reorganized with those that would abide by the rules as regards control" (p. 355).

Since members of the Socialist Party elected to office are no more than mere *proxies* for the dues-paying members of their locals, it is of interest to read the provisions of the National Constitution of the Socialist Party under the head of "Membership," to ascertain who are eligible as dues-paying members, as follows:

"Section 1. Every person, resident of the United States of the age of eighteen years and upward, without discrimination as to sex, race, color or creed, who has severed his connection with all other political parties and political organizations, and subscribes to the principles of the Socialist Party, including political action and unrestricted political rights for both sexes, shall be eligible to membership in the party" (p. 152).

The dues-paying members of the Socialist Party of America comprise a very small percentage of those voters who affiliate with the party, and a still smaller fraction of those who vote for the candidates of the Socialist Party on the official ballots in this State. The evidence shows that in the County of New York the present dues-paying membership of the Party consists of 5,568 persons. Of these, 3,833 are marked on the card records in the office of the Secretary of New York Local as citizens, 987 not citizens, and in the case of 802 there is no record as to citizenship (p. 1579).

It thus appears that in the county of New York approximately one-fifth of the dues-paying members are aliens.

It is apparent, therefore, that those who are elected to public office on the Socialist ticket are responsive to the domination and control of a small group and that a substantial part of this group is composed of aliens.

The affiliation of these men whose qualifications are under consideration in this proceeding with the group so constituted, as aforesaid, calling itself the Socialist Party of America and controlling the official emblem of the Socialist Party, having been found, and the consequences of such affiliation having been established, it becomes important to trace the history of the Party or of the group so describing itself, from the time of its organization, and to ascertain whether the said group with which these men are at present affiliated, has been and now is in hearty accord and sympathy with the Government and institutions of the United States and of the State of New York, or whether said group and these men so connected with it have been guilty of conduct "prejudicial to the welfare of society, of the Nation, or its Government."

It becomes important also, under the charges, to ascertain whether this group calling itself the Socialist Party, did urge its members to refrain from taking part in any way, shape or manner, in the war, and did urge them to refuse to engage even in the production of munitions and other necessities used in the prosecution of the said war, and whether they were, by their attitude, inimical to the best interest of the United States and the State of New York; for, as we have seen, such conduct is conceded to be a certain test as to the qualifications of these men.

It becomes further necessary to trace the history of the Socialist Party from its organization down to the present time, in order to enable us to ascertain whether under the leadership of the present group of dues-paying members the organization has degenerated into a mere revolutionary group, antagonistic to the Government of the United States and of the State of New York, and pledged to the overthrow of our Government by mass action and force.

The Socialist Party, indifferently called in these proceedings "The Socialist Party of America" and "The Socialist Party of the United States" (p. 1364), was developed in 1900 from the Socialist Labor Party. It adopted a platform, held conventions, took part in the activities of politics, advanced theories of Government at variance with those of the majority parties, advocated many so-called reforms, and continued throughout a series of years as a recognized political party of the Nation and State.

During those years it was probably subject to absorption by alien control, but it has only been recently that the danger to which it was so subject has begun to manifest itself in a definite

way. It has for some time maintained foreign language branches under the supervision of its Executive Secretary and Executive Committee. Each of these branches has had what is known as a translator-secretary, conversant with his own as well as the English language, whose duty it is to serve as a medium of communication between his federation and the National Organization (p. 154). It also fostered under the provisions of its National Constitution an organized body of young people, now recently separated from the parent organization, and known as the Young People's Socialist League, commonly referred to as "Yipsels."

The attitude of the group now in control of and known as the Socialist Party of America towards the war is best shown by platforms and manifestoes of the party, articles contained in its official organs, publications of the foreign language groups and of the Young People's Socialist League, and other agencies connected with the main organization.

It is an historical fact that the sinking of the *Lusitania* by a German submarine brought sharply to the attention of the American people the necessity of preparing for the protection of our national integrity and honor. It is not surprising, therefore, that the Socialist Party's opposition to and obstruction of the Government of the United States in all measures relating to national and State defense became conspicuous at this time.

Immediately after this disaster, the National Committee of the Socialist Party, at a meeting held in May, 1915, formulated a new section of the Constitution of the Party, which was later ratified in a referendum of the membership, by a vote of 11,041 for and 782 against, as follows:

"Article II, Section 7. Any members of the Socialist Party elected to an office who shall in any way vote to appropriate moneys for military or naval purposes or war, shall be expelled from the Party."

This meeting was attended by Mr. Hillquit, who assisted in drafting a manifesto which was addressed by the Committee to the American people, and widely distributed as an official pronouncement, the last paragraph of which was as follows:

"Let us proclaim in tones of unmistakable determination: 'Not a worker's arm shall be lifted for the slaying of a fellow worker of another country, nor a wheel turned

for the production of man-killing implements of war supplies. Down with war! Forward to International peace and the world-wide solidarity of all workers!" (pp. 1364-1365).

On April 21, 1916, when the situation became critical as a result of the exchange of diplomatic notes with the German government over the use of submarines as a means of warfare, the National Secretary of the Socialist Party of America met with the various translator-secretaries, i. e., the secretaries representing the various foreign language federations, and drew up a proclamation for publication in all languages to the membership of the party. This proclamation closed with the following sentence:

"We suggest and appeal that the workers as a measure of self-defense and as an expression of their power exert every effort to keep America free from the stain of a causeless war even to the final and extreme step of a general strike and the consequent paralyzation of all industry" (pp. 1369-1370).

The Socialist Party of America for the Presidential campaign in the fall of the year 1916 prepared its party platform. The United States, by the criminal program and acts of the Imperial German Government, was being drawn nearer and nearer to participation in the war. Our national honor and integrity were the objects of persistent and continuing attacks, multiplying day by day. U-boat warfare was carried on within a few miles of our coast. The German ambassadorial representative, domiciled in our national capital, was directed to and did stir up industrial unrest among the workers in our factories and attempted to embroil us in war with our southern neighbors. In a thousand other ways Germany was seeking to involve us in domestic strife and foreign difficulties. The Socialist Party of America, in order to render us impotent to defend our national honor and safety under these circumstances, wrote into its Presidential platform the following:

"The working class must recognize the cry of preparedness against foreign invasion as a mere cloak for the sinister purpose of imperialism abroad and industrial tyranny at

home. The class struggle, like capitalism, is inter-national. The proletariat of the world have but one enemy, the capitalist class, whether at home or abroad.

"We must refuse to put into the hands of this enemy an armed force even under the guise of a 'democratic army,' as the workers of Australia and Switzerland have done.

*"Therefore, the Socialist Party stands opposed to military preparedness, to any appropriations of men or money for war or militarism, while control of such forces through the political state rests in the hands of the capitalist class. The Socialist Party stands committed to the class war, and urges upon the workers in the mines and forests, on the railways and ships, in factories and field, the use of their economic and industrial power by refusing to mine the coal, to transport soldiers, to furnish food or other supplies for military purposes, and thus keep out of the hands of the ruling class the control of armed forces and economic power necessary for aggression abroad and industrial despotism at home" (p. 1374).*

During the remainder of the year 1916 and up to the time of the declaration of war by the United States against the Imperial German government, we can safely assume the fact to be that a series of events developed which admitted of no question but that the United States, in order to defend its rights and the honor of the nation, and the people thereof to defend themselves from foreign aggression, would be obliged to declare a state of war, and such declaration was, on April 6, 1917, solemnly made by the Congress of the United States, after the receipt of the Presidential message so advising the same and stating in clear language a long series of unjustifiable, autocratic and utterly defenseless acts and attacks against the honor and integrity of the United States by the Imperial German government.

Immediately this declaration was made, the people of this country, as a whole, irrespective of political and every other kind of affiliation, united to protect the honor, integrity and life of the nation itself. The solitary outstanding exception to the otherwise unanimous loyalty of the American people was the Socialist Party of America.

On April 7, 1917, the day following the declaration of war, this group known as the Socialist Party of America met in

National Convention in the city of St. Louis, Mo., and continued in convention until April 14, 1917.

The convention proceeded to shape and declare the policy of the party with respect to the war. It adopted a war program which began as follows:

“The Socialist Party of the United States, in the present grave crisis, solemnly reaffirms its allegiance to the principles of internationalism and working-class solidarity the world over and proclaims its unalterable opposition to the war just declared by the Government of the United States.”

The country being then at war the party called upon the “workers of all countries to refuse support to their governments in their wars.” This meant that the workers in the United States were to refuse support to this government in the war. If this support had been denied the demand of the presidential platform of 1916 would have been complied with; no coal would have been mined; not a wheel would have turned; no troops would have been transported; no munitions would have been manufactured; no food would have been distributed; no supplies of any character would have been distributed; the nation would have been completely at the mercy of its enemies.

The war program repudiated and discredited the idea of the obligation of national allegiance. This position was unmistakably defined in the following language:

“The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare. As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity.”

At the same time that the Socialist Party of America was seeking in every way to obstruct and render us helpless and impotent, the majority Socialists of Germany were assisting their government to carry on a successful war.

Recognizing that if the United States were to be successful in the war, its man power, both military and industrial, and all its resources must be mobilized to make effective resistance to the

gigantic German military machine which was supported by the organized industries of the German Empire, and that a failure on the part of the industrial workers of our nation to sustain and support our military establishment and to subordinate every other consideration to the paramount duty of the American people to defend the national integrity and honor, meant the utter failure and defeat of the United States and the victory and success of German arms, the Socialist Party of America announced its policy of obstruction and resistance in the following language:

"In harmony with these principles the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions. On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action:

"1. Continuous, *active* and *public* opposition to the war through demonstration, mass petitions and all other means *within our power*.

"2. Unyielding opposition to all proposed legislation for military or industrial conscription.

"Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws and for the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempts to raise money for the payment of war expenses by taxing the necessities of life or issuing bonds which will put the burden upon future generations. We demand that the capitalist class which is responsible for the war pay its cost. Let those who kindle the fire furnish the fuel.

"4. Consistent propaganda against military training and militaristic teaching in the schools."

In addition to the foregoing war program the party adopted a platform, which platform is still in force and effect (*pp.* 456, 463-464).

In that platform it called "upon all workers to unite, to strike as they vote and to vote as they strike — all against the master class" (*p.* 461).

"Only through this combination of our powers can we," said the platform, "establish the co-operative commonwealth," etc.

In its immediate program it incorporated the following political demands among others:

"Resistance to conscription of life and labor.

"Repudiation of war debts" (p. 462).

In the same convention of April, 1917, an exceedingly significant and altogether consistent step was taken in furtherance of the war program of the party.

Since 1912 the party had stood committed, under the provisions of Article II, section 6, of its National constitution, against the practice of sabotage. That provision of the constitution was, in April, 1917 — after the declaration of war — repealed. In view of the context, consisting of the war program with its pledge to use all means within the power of the members, with its demand for an even more vigorous prosecution of the class struggle, with its declaration that the only struggle which would justify the workers in taking up arms was not the national struggle, but the class struggle — taking all these things into account, the removal of restraint on the use of sabotage becomes significant with sinister meaning.

Sabotage is one of the most effective, if not the most effective, method of rendering industrial coöperation not only ineffectual, but impossible. It brings about that condition of national inefficiency and impotency to which the party was pledged to devote itself with unremitting energy, and despite the labored and disingenuous explanations given on the witness stand for the repeal of the anti-sabotage provision, such repeal cannot be regarded as intended to accomplish any other purpose than to notify the members of the party that even the negative restraint imposed upon them in making effective their program of industrial action had been removed, and they need no longer consider themselves hampered thereby. It was a tacit invitation to commit sabotage.

It is wholly illogical to say that sabotage is individual as distinguished from mass action. Individual action is action by an individual, and mass action is action by a group or mass of individuals. Mass action is merely the total of individual action or non-action. A mass is made up of individuals and may employ sabotage, as well as any other method, for accomplishing its purpose. An invitation addressed to a group to employ sabotage is manifestly intended to induce mass action rather than the action of an individual.

The foregoing proceedings of the national convention of April, 1917, were promulgated and made effective by the membership of the party. The war program was sent all over the United States for adoption by the various locals (*p.* 1377). The platform was likewise distributed for consideration of, and vote by, the locals (*p.* 1378), and the repeal of Article II, section 6 (sabotage), being an amendment of the constitution, was similarly submitted to a referendum vote and adopted.

Evidence before us would further indicate that the party was also engaged in a systematic effort during the war to foster claims of conscientious objection. Exemption blanks, so-called, were prepared, the bill for printing which was sent to the Socialist Party of America at its national headquarters, and it is significant that at least one of these five Assemblymen claimed exemption from service in a military capacity on the ground that he was a conscientious objector.

The Socialist Party members were aware that the course they were pursuing in relation to the war made them liable to criminal prosecution, especially under the provisions of the Espionage Act. Accordingly the Executive Committee, after the passage of the said Act, deleted from the platform sent from the St. Louis Convention and adopted by a referendum of the membership, the provisions inciting resistance to conscription of life and labor, and demanding repudiation of war debts. This platform, which is still in force, has not, however, been amended by any vote of the party, and the action of the Executive Committee was not only unauthorized but prohibited by the constitution and has never been approved by a party vote.

Further evidence of the recognition of the unlawful conduct of the party during the war is contained in the letter addressed by the National Secretary of the Young People's Socialist League, William F. Kruse, also a member of the National Executive Committee of the Socialist Party, to the secretaries of the different branches or locals of the league. In the course of this letter Kruse writes:

"If you have followed my previous instructions you will now have an unofficial 'emergency' committee, composed of the most trustworthy young Socialists in your League; you will have several copies of your most important records and especially of your mailing list stowed away in various safe and secluded places; and you will have three trustworthy

officers broken in for each important job that is vital to the welfare of the League. At least one of these officers should be a girl, so that if our boys were all jailed for refusal to serve, the girls can keep the League going. Now comes the next step.

"Get the emergency officers together, and lay this matter before them. Make up your minds that if ever the Y. P. S. L. is suppressed you will immediately get together some athletic club, dance society or pleasure circle. The name of this other organization should have nothing in common with Socialism, but it will be the Y. P. S. L. just the same. Should this other organization be discovered and disrupted, go through the same process again and again and again, if necessary" (pp. 608-609).

The war proclamation of the Socialist Party was fully endorsed by the Young People's Socialist League, and May 6, 1917, they issued a resolution on the war which was given wide circulation. A portion of it reads as follows:

"Whereas, The working class of the U. S. have no cause to war against the working class of any nation in the world, and

"Whereas, There is no doubt in the minds of Socialists that this is a war for profits waged in the interests of the capitalist class, but fought by the workers of the belligerent nations who have nothing to gain and everything to lose in murdering each other under the artificial stimulus of fake and pernicious 'patriotism,' and

"Whereas, The Socialists of Germany, France and England were bitterly criticized and condemned by the Socialists of America, because at the beginning of the conflict in Europe they failed as a unit to resist the calls to arms, and

"Whereas, The excuse given was that the war had come upon them so suddenly that they had no opportunity to think clearly or organize effectively in opposition, and

"Whereas, Even though this excuse be valid for our comrades across the sea, it cannot avail in the United States, for we have had over two and one-half years to think, and every opportunity to realize the nature of the struggle and the part that the Socialist movement should play in it, and

"Whereas, The Volunteer system having failed, the gov-

ering powers of the United States have resorted to conscription to fill up the ranks of the army and navy, and whereas the failure shows clearly that the spirit and opinion of the working class and the masses are opposed to the war or military preparation for war, and

“Whereas, If our principles were true before the war they are unquestionably true now that the war has been thrust upon us, and if we are not to prove traitors to the cause of the working class, it is our duty at once to take a positive stand refusing to fight the wars of the exploiters of this country, therefore, be it

“Resolved, By the Convention of the Y. P. S. L. of Chicago, part of the International Socialist Movement, that we call upon all workers not to join the fighting forces of the nation, whether drafted or not, i. e., to bear arms or aid in the furtherance of the war in any way whatsoever, and be it further

“Resolved, That we express our hearty concurrence with the war program adopted by the Socialist Party National Convention at St. Louis.

\* \* \* \* \*

“And be it finally Resolved that the Young People’s Socialist League with the aid of the Socialist Party establish a fund to aid all comrades who become involved in difficulties on account of agitating for our principle.”

The Socialist Party of America held no convention after April, 1917, until the close of the war, but the members were not idle in the prosecution of their program, which was carried into effect by an unceasing deluge of propaganda. Pamphlets by the hundreds of thousands were distributed. They were of the most disloyal and treasonable character. Some of them have been received in evidence and read to the Committee. They were deliberately intended to prevent enlistment, to obstruct the draft laws and the sale of Liberty Bonds, to discourage every kind of patriotic activity and to destroy the morale of the people by ghastly pictures of the horrors and consequences of war, utterly unscrupulous misrepresentations of the purposes of our participation in the war, and by making the loyal men and women who in one activity or another were giving their lives and fortunes to the national defense objects of ridicule, insult and hatred. Many of

these publications and utterances have been the subject of judicial comment and some of the records in such cases are before the Committee.

In the city of New York the daily organ of the Socialist Party published in English was denied certain privileges under the postal laws. Exhibit 98, consisting of the answer of the Postmaster-General to the petition for mandamus to compel him to restore to the New York *Call* such rights, and to a rule directing him to show cause why such rights should not be restored, contains excerpts by date and title from some of the issues of that publication during the period beginning shortly after the war and continuing throughout the same and thereafter. These excerpts fill 60 pages of that answer.

On June 2, 1917, an article was published entitled "Bonds and Bondage" by Adolph Germcr, Executive Secretary of the Socialist Party of America, referring to Liberty Bonds, a portion of which article reads as follows:

"The bonds are not for 'Liberty' but for bondage. We have a right to disbelieve you gentlemen of the administration. You were elected on the slogan 'He kept us out of the war.' and the people not wanting war, you forced us into it. \* \* \* \*

"We realize that our only hope lies in ourselves and in keeping with that we shall rally the workers of the country into one organization, the Socialist Party, which is dedicated to true democracy."

Peter Collins, who testified as to the attitude of the Socialist Party in regard to the war, says:

"I found a direct antagonism on the part of the Socialists within the industries to increase production or to in any way help back up the men who were fighting in France. I found a general and bitter antagonism expressed by the Socialists in the sale of Liberty Bonds and to the other activities that I have just mentioned. This was brought to my attention very frequently in the course of my thousands of miles going back across the country again and again" (p. 684).

The New York *Call* is, as we have said, the daily organ of the Socialist party published in English in the city of New York.

The president of the corporation is Mr. S. John Block, one of the counsel for the five Assemblymen. The *Call* was, as we have seen, denied certain privileges under the postal laws of the United States and obtained a rule to show cause from the Supreme Court of the District of Columbia why such privileges should not be restored to it. The aforesaid answer of the Postmaster-General to that rule and to the petition for mandamus, to which we have already referred, in the aforesaid proceeding, entitled "The United States of America ex rel. The Workingmen's Cooperative Publishing Association, Relator, against Albert R. Burleson, Postmaster-General of the United States, Respondent," contains the following characterization:

"These publications, including the New York *Call*, in varying language brand the declaration of war by our Government as a crime against the people of the United States and against the nations of the world, and represent that in all the history there has been no war more unjustifiable than the one in which we are engaged; that no greater dishonor has ever been forced upon the people than that which the capitalist class is forcing upon this Nation against its will. They advocated active and public opposition to the war through demonstrations, mass petitions, and all other means within the power of their readers and the organizations they represented, and unyielding opposition to all proposed legislation for military or industrial conscription; opposition to the Liberty Loans upon which the Government was dependent to finance its war operations, and held up to admiration and sought to make martyrs of notorious violators of the Espionage Law who were indicted and convicted in the courts from time to time for acts in violation of that statute. \* \* \*

"During said period when the relator's publication was being issued and mailed, the Government of the United States was engaged in increasing its naval forces by enlistment and its military forces both by enlistment and by the Selective Draft, and was also engaged in raising the necessary funds with which to meet its expenses in conducting the said war with Germany by calling upon the citizens of the United States to subscribe for and purchase the bonds of the United States; during the same period the United States was mobilizing and training its military and naval

forces for the conduct of the said war with Germany, and was engaged in calling upon the people of the United States to conserve food and render various services, and, in general, on mobilizing every resource of the United States and its people for the purpose of a speedy, effective, and successful prosecution of said war with Germany."

As part of his answer (*Ex. 98, pp. 258-312*) the Postmaster-General quoted the excerpts to which we have already referred, consisting of articles which appeared in the *Call* at a time when tension was greatest in the United States and the difficulty of preparing for the war at its height. Some of these by title are as follows:

Issue of July 20, 1917, "Applying the Guillotine."

July 25, 1917, cartoon, reprinted from *The Masses*. This cartoon is referred to in the opinion of Mr. Justice Rogers in the case of *The Masses v. Patten* (246 Fed. 37), the judge stating that the Postmaster-General was not clearly incorrect in declaring this matter to be in violation of the Espionage Act.

August 5, 1917, cartoon "The Whirl of the World," showing "Death Dance of the Lunatics of the World; price of admission: an arm, leg, eyes, mind or your life." Approaching the figure of Death and apparently seeking admission is the figure of a workingman who says, "My boss said for me to see this show."

August 6, 1917, cartoon, "A collector who collects," representing the figure of Death invading the family circle, laying a paper on the table marked "Cost of War \$884 per annum for each family," and saying, "Before you eat, pay this."

Issue of August 11, 1917, "Worth While but to Whom."

August 19, 1917, *Call's* Sunday Magazine, "Why the U. S. Is at War."

August 24, 1917, "Why We Went to War."

August 26, 1917, *Call's* Sunday Magazine, "A Crime of Conscience."

August 27, 1917, "Give the Poor Trusts a Chance," by Scott Nearing.

August 28, 1917, "The Great Madness," by Scott Nearing.

August 31, 1917, chapter 7. "The Liberty Loan."

September 1, 1917, "Conscription."

September 3, 1917, "The Great Madness," chapter 10. "Spreading Americanism with the Sword."

September 5, 1917, "The Great Madness," chapter 12, "The People Awake."

September 7, 1917, "To the Abbatoir, via Fifth Avenue."

October 7, 1917, "Has a Workingman a Country to Defend?"

"It is not surprising, therefore, that, in the report of the Executive Committee of the Socialist Party of America to the National Emergency Convention held in Chicago, September, 1919, we read that some two thousand Socialists in all have been arrested and that some of the foremost leaders of the party are now serving prison terms for carrying out the program and principles of the party. Notable among these violators of the law are Eugene V. Debs, the choice of the party for President of the United States in the year 1920; Adolph Germer, the National Executive Secretary; Louis Engdahl, the editor of the party organ "*The American Socialist*;" William F. Kruse, secretary of the Young People's Socialist League; Victor L. Berger, Ship-lacoff and Clark, members of the National Executive Committee. Herman Krafft and Wagenknecht, of the National Executive Committee, have also served terms in prison. Victor L. Berger, in addition to a sentence of twenty years, has four indictments pending against him, besides being refused his seat in Congress; and the number includes Irwin St. John Tucker, one of the party's most prolific writers of propaganda. All the Socialist candidates for Congress in Wisconsin and the State Secretary also were under indictment in September, 1919.

To this should be added the statement of the National Executive Committee published in the official bulletin, explaining the reason why no convention was held.

"To have held the convention would have subjected many comrades to persecution and imprisonment" (pp. 1488-1489).

In other words, it was impossible to give expression to or act upon the true doctrines of the Socialist Party during the war without violating the criminal law.

The war attitude of the party drove out of its ranks those who retained any vestige of their allegiance to the United States. From this time forward the ranks of the Socialist Party of America began to be depleted to the extent of those who found that the party and Americanism were in violent hostility and

antagonism and who, placing the interests of the United States above those of the International program of Socialism, found that they could not, consistently with their duty and allegiance as citizens of the United States, remain in the party. From this number, however, the five Socialist Assemblymen were conspicuously absent.

As Benson, the party's candidate for President in 1916, said:

"A few men in the party, who should have known better, have accepted and proclaimed the false doctrine that a workman can have no country, and, therefore, that it is immaterial to him whether the country in which he lives, if it be at war, shall be defeated or not. Such men seem quite unconscious of the fact that this is the doctrine of Proudhon and Bakunin, the anarchists, rather than that of Marx, the Socialist.

"Marx believed that workingmen everywhere had a very real interest in the success of the North in our Civil War, and upon at least one occasion wrote to Lincoln congratulating him upon what he was doing to bring such a victory about.

"The present foreign-born leaders of the American Socialist Party, if they had lived during the Civil War, would doubtless have censured Marx for congratulating Lincoln.

"For these reasons I now take leave of the Socialist Party a year after I ceased to agree with it. It seemed to me that, having been at the head of the national ticket two years ago, it was particularly my duty to wait and see if the party would not right itself. It has not righted itself. I, therefore, *resign as a protest against the foreign born leadership that blindly believes a non-American policy can be made to appeal to many Americans*" (pp. 1541-1542).

The anti-war attitude of the party was reflected in the anti-enlistment pledges signed by two of these Assemblymen, Louis Waldman and August Claessens. These pledges are as follows:

"I, being over eighteen years of age, hereby pledge myself against enlistment as a volunteer for any military or naval service in international war, offensive or defensive, and against giving my approval to such enlistment on the part of others."

These pledges were forwarded to the Anti-Enlistment League, 61 Quincy street, Brooklyn, N. Y. (*pp.* 922-923).

The testimony before the Committee enumerates the various bills introduced during the war period by the Socialist members in this Assembly and their votes against all measures for the sustaining of the Government in time of war, and their refusal to support any measures adopted by the State during the said period in aid of the Federal Government, including any appropriations for military or naval purposes or the support of the militia in the State.

In the examination of bills introduced by these men it will be found that the object and aim of a large percentage of them were to repeal existing statutes which were placed on the statute books of the State to aid in the protection of the State in time of war, among them being the very important bill creating a local Home Guard to act in place of the State Guard while on foreign service. The repeal of this act would have left the State powerless in case of insurrection at home.

The votes of Socialist members of this Assembly in previous sessions where military appropriations were involved shows that the promise they made to their party in obedience to Article II, section 7 of the national Constitution of the Party, was not an idle one, but one which they intended to execute, notwithstanding the oath taken by them to support the Constitution of this State containing the following provisions, being sections 1 and 3 of Article XI of said Constitution:

"Section 1. All able-bodied male citizens, between the ages of 18 and 45 years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now or may be hereafter created by the laws of the United States, or by the Legislature of the State.

"3. Organization of Militia. The militia shall be organized and divided into such land and naval and active and reserve forces as the Legislature may deem proper; provided, however, that there shall be maintained at all times a force of not less than 10,000 enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service; and it shall be the duty of the Legislature at each session to make sufficient appropriation for the maintenance thereof."

On Senate Bill No. 271, January 9, 1918, entitled "An act to make available for the New York Guard certain moneys appro-

priated for the National Guard by Chapter 181 of the Laws of 1917," the records show that this bill was opposed by all of the Socialist Assemblymen, Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Rosenberg, Mr. Orr, Mr. Waldman and Mr. Whitehorn (*p. 571*).

The General Appropriation Act in 1919 entitled "An Act making appropriations for the support of the Government" was voted against by Claessens and Solomon, the only Socialists in the Assembly at the time, and being the only Assemblymen voting in the negative (*p. 572-3*). This act contained appropriations for the National Guard.

"An Act to amend the Education Law, in relation to qualifications of teachers," in the 1918 Legislature contained a provision to exclude alien enemies from the teaching staff of this department of the State. The only votes in the negative on this bill were cast by the Socialists, Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn (*pp. 573-4*). When the same bill came over from the Senate in 1919, the only persons voting against it were Claessens and Solomon, the only Socialists then in the Assembly (*p. 574*).

The act to amend the Education Law in relation to physical training and the use of armories was opposed by only two votes in the Assembly in 1919, viz.: Claessens and Solomon (*p. 575*).

In 1919 Claessens and Solomon were the only Assemblymen to vote against "An Act to provide for the publication of the law relating to the desecration of the flag" (*p. 575*).

In 1919 Claessens and Solomon cast the only votes against an act to provide for paying members of the National Guard who served without the State in response to the call of the President of June 19, 1919 (*pp. 575-6*).

The only votes against the Appropriation Act for the support of the Government of 1918 containing appropriations for the National Guard and National Defense were recorded by the Socialist Assemblymen, Mr. Claessens, Mr. Feigenbaum, Mr. Garfinkel, Mr. Gitlow, Mr. Karlin, Mr. Orr, Mr. Rosenberg, Mr. Shiplacoff, Mr. Waldman and Mr. Whitehorn (*p. 576*).

The same Assemblymen cast the only votes against the act relating to the military training of boys in 1918 (*pp. 576-7*).

The same Assemblymen cast the only votes against the act "To provide for requisitioning the labor of able-bodied persons between the ages of 18 and 60 years who are not engaged in a lawful and

useful business, occupation, trade or profession" (p. 577), and the same Assemblymen cast the only votes against "An act to provide for paying members of the National Guard who served without the State under the call of the Federal Government" (pp. 577-8).

Claessens outstripped all of his associates in carrying out his promise to his party. He not only voted against all legislation providing for military or naval appropriations for war, but he introduced much affirmative legislation of an offensive character.

On January 29, 1919, Claessens introduced "An act to amend the military law in relation to the reserve militia," which repealed chapter 568 of the Laws of 1918, embracing the entire statutes relating to the militia of the State of New York (p. 612).

On February 14, 1919, Claessens introduced a bill "To amend the executive law and the public officers law in relation to the employment of the state militia, National Guard or State Police to suppress strikes, walkouts or other national disputes" prohibiting their employment (pp. 613-4).

On January 9, 1919, Claessens introduced a bill to repeal chapter 566 of the Laws of 1916, being the law in relation to military training in the State of New York (p. 613).

On January 20, 1919, Claessens introduced a bill to repeal chapter 470 of the Laws of 1918 in relation to the military training of boys (p. 613).

On January 21, 1919, Claessens introduced a bill to repeal the State Police Law (pp. 613-14).

The promise of the Socialists not to vote for any military or naval appropriations or for war, is as much in conflict with the Federal Constitution as with the State Constitution, disqualifies them from taking the official oath to support the Federal Constitution, and renders the oath so taken void.

The Federal Constitution expressly provides that Congress shall have power "to provide for the National Defense" (Art. I, sec. 8, subd. 1). "To declare war, grant Letters of Marque and Reprisal" (sec. 8, subd. 13). "To provide for calling forth the militia to execute the laws of the Union and suppress insurrections and repel invasions" (sec. 8, subd. 15). "To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States" (sec. 8, subd. 16).

Article II, section 2, provides: "The President shall be the Commander-in-Chief of the Army and Navy of the United States."

Article IV, Section 4, provides "The United States shall guarantee to every State in the Union, a Republican form of Government, and shall protect each of them against invasion, and on application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence."

The Second Amendment of the Federal Constitution provides: "A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

The promise to oppose all military and naval appropriations, and appropriations for war, is a part of the plan of the Socialist Party to destroy the existing form of Government and substitute the government of the proletariat, as fully appears by their propaganda. It involves a species of State suicide, and, carried to its legitimate conclusion, would involve the destruction of both the Federal Government and the governments of the States. The promises to the party and its program in this respect are in conflict with the obligation, stronger because assumed in every clause of the State and Federal Constitution than if expressly declared therein, of every citizen and public official to save and defend the State and nation, and not destroy them. This is loyalty. The position of the Socialists is disloyalty and treason.

Compare the interpretation by the Socialist Assemblymen of their oath to sustain the State and national Constitutions with the declaration of Lincoln: "I have a solemn vow registered in heaven, that I will preserve, protect and defend the Constitution of the United States."

Mr. Justice Weeks, in sentencing Gitlow, a Socialist member of the Assembly of 1918, convicted of circulating revolutionary literature, said:

"He took the oath as a member of the Assembly of this State to support the Constitution of the United States and of the State of New York. When he entered the Assembly he was fettered by that obligation of his organization, which provided that he should be driven from it if he voted for an appropriation for military purposes or for war.

"Was that only the entering wedge for the destruction of the nation, to prevent it appropriating money to save itself

in war, to hamstring it? It certainly seems so. What protection would we have against war? The dreams of visionaries would not prove a very satisfactory defense against a foreign enemy. It may be that these dreams elevate in a sense like a drug that fills the brain with wonderful pictures — idealism without practicability. So long as we are on this mundane sphere the only way we can keep our feet on the ground is to stand on something substantial — to stand by the Government. I hope the verdict will reach out and act as a deterrent to others."

There is but one inference from the position of the Socialists in relation to military and naval appropriations and for war. They would render the country and Government helpless against all enemies so that it may be helpless against them, the enemies of established order. And for the opportunity which the helplessness of Government thus brought about would give them, they are willing to expose the State to the assaults of all other enemies.

The Socialist Party of America, controlled and dominated as aforesaid, is therefore an organization or group of men combined together for the purpose of hindering and obstructing the Government of the United States, and the dues-paying members of this group, including these five Assemblymen, by their membership, activities and contributions of funds to aid in the common cause of prosecuting the purposes of the party, and promulgating the various manifestoes, publications, letters and documents against the Government of the United States, were and are disloyal to this Government, and these Assemblymen, for the aforesaid reasons were disqualified from taking the constitutional oath of office on January 7, 1920.

In our opinion, all the evidence presented in regard to this group or organization from the time of the sinking of the Lusitania down to the close of the war, clearly leads to the conclusion that aid and comfort to the enemies of the nation were given by such group or organization; and that these Assemblymen, being members thereof, solemnly pledged to carry out all of its mandates and proclamations, and as dues-paying members supporting it with their contributions were equally responsible with it.

We further find that the Socialist Party of America not only repudiated its national allegiance during the war, but that, in so doing it was fulfilling a self-imposed obligation of allegiance to

an anti-national and international authority insisting upon repudiation of national allegiance.

During the war the Socialist Party of America adhered to the uncompromising group of international radical revolutionary Socialists who, under the leadership of Lenine, met at Zimmerwald in September, 1915, and at Kienthal in 1916, and on whose program the so-called Third or Moscow Internationale has been erected. The Bolsheviki of Russia, the Spartacides and Independent Socialists of Germany and the Socialist Party of America are the chief exponents of uncompromising radical revolutionary Socialism in the world, and have been since 1915. Those Socialists in Europe, as well as those in America, who were loyal to their respective governments, joined in coalition cabinets and assisted their countries in the prosecution of the war, are expressly eliminated from the category of uncompromising Socialists.

It was regarded by radical revolutionary Socialists and perhaps by many others that one of the consequences of the war was the destruction of the so-called Second Internationale and that in consequence the creation of a Third Internationale was necessary if international Socialism were to continue to exist.

When the war ceased there were, therefore, broadly speaking, two classes of Socialist groups in the world, each of which groups could theoretically constitute the nucleus for a new Internationale. On the one hand there were those groups that had remained loyal to their governments during the war, and on the other there were those groups that during the war had proved disloyal to their governments and loyal to the principles of Internationalism. The character of a new Internationale would be essentially different, accordingly as it was composed of one or the other of these classes. Adherence to one group or the other would be evidentiary of the attitude of the adherent in the matter of national allegiance. Membership in an Internationale formed by the so-called pro-war Socialists carried with it the idea of national allegiance and faithlessness to the principle of Internationalism. Membership in an Internationale formed by the uncompromising revolutionary section of the International Socialist movement meant plainly faithlessness to national allegiance and adherence to Internationalism. The essential difference between these two classes was clearly established upon this inquiry and is confirmed by the brief filed on behalf of the Socialist Assemblymen.

After the armistice two conventions were held to decide the membership and principles of the new Internationale. One was

held at Berne in Switzerland, the other at Moscow. The character of the former was obvious from the fact that it excluded the Russian Communists (Brief for S. A., pp. 54-55). It was composed of the loyal, or, as the party in this country calls them, pro-war Socialists. There was, it is true, a smattering of revolutionary elements, but these were in a decided minority. The Socialist Party of America denounced the Berne Conference and by Referendum "D" voted in the summer of 1919 to give its support to that Internationale only which should include the Communists of Russia and the Spartacans of Germany (p. 2106).

The Moscow Conference or Convention was held in March, 1919. It was called by the Communists of Russia to organize a Third Internationale. In the contemplation of those under whose auspices it was held, the Second Internationale was dead, and the Third Internationale was to be a departure from and a long step in advance of any position that had been taken by the Second Internationale. This time the uncompromising revolutionary section of the International Socialist movement determined that it would form an organization in which should participate no group that had been loyal to its government in the war, but which should be composed exclusively of those groups which had been loyal to the principles of Internationalism and consequently disloyal to their governments.

The Socialist Party of America cast its lot with Moscow, and by that act, as well as its declarations and acts during the war, announced that henceforth its allegiance and support in time of crisis would not be given to the United States of America but would be given, as they had been given during the war, to International Socialism.

We are, therefore, confronted at this day and by virtue of these recent events and facts with the necessity of determining how we shall treat this group of persons now in control of the Socialist Party of America and masquerading under its name as a political party; who are in the United States but not of it; who accept all of the benefits of citizenship but repudiate all of the duties of allegiance; who are the beneficiaries of our laws and institutions and the sacrifices of blood and treasure made for the perpetuation of our institutions but refuse to support them; who take all that they can get but will give nothing; who so far from defending and maintaining the government, which is their sole and only guarantor of life, liberty, property and the pursuit of happiness,

declare that they will obstruct and resist the Government in the accomplishment of its duty of self-preservation.

The issue transcends in importance even that which was raised by the proclamation of the war program of the Socialist Party of America, adopted in April, 1917; for disloyal and traitorous as that program was, the present international affiliation of this organization proves conclusively that its conduct at that time was not an isolated act of disloyalty, but the initial step in a continuing program of treason. The Socialist Party of America as now constituted, and with its present program, is not a loyal American organization or political party disgraced *occasionally* by the traitorous act or declaration of a member, but is a disloyal organization composed exclusively of *perpetual* traitors.

Therefore, the act of a member of that party in subscribing to the constitutional oath of office to support the Constitution of the United States and the Constitution of the State of New York should be utterly disregarded as patently sham and a mere cloak for treachery.

The affiliation with Moscow followed in natural and inevitable sequence from the conduct of the organization during the late war.

It is only in time of national crisis and danger that any affirmative proof of loyalty is furnished by or demanded from the citizen. In time of peace and tranquillity, allegiance and loyalty are negative things. It is only when the country is in danger that allegiance and loyalty become matters of the gravest importance and the necessity for making proof of them becomes inevitable.

It is, therefore, not surprising that the disavowal and repudiation by the Socialist Party of America of its adherence to Internationalism were not manifested until the entry of the United States into the great World War, when immediately the anti-American and alien character of this organization became evident.

In the early part of last year James Oneal was sent to Europe by the Socialist Party of America to inquire into and report upon the international situation, and on May 7th, 1919, upon his return made a report which was submitted in June, 1919, to the National Executive Committee of the Socialist Party. His visit to England closely followed the Moscow Congress, at which the Third Internationale was established in March, 1919. It also followed the Berne Conference, which was rejected by the Socialist Party of America because such conference attempted to revive the Second Internationale, excluded the Russian Communists, included the patriotic Socialists and was not radical and revolutionary.

Oneal's report (*pp.* 2019–2024) is of great importance, because of its explanatory statement of the nature of the Third Internationale, and was before the members of the Socialist Party of America at the Emergency Convention held in Chicago in September, 1919, when the party decided to affiliate with the Moscow Internationale.

The membership of the Moscow Congress, as explained by Oneal, is made up of "all the elements of the Socialist movement that oppose war and militarism, relies upon the class struggle to chart the course of the movement and keeps in mind the fact that the real struggle in the modern world is between the workers of all countries as against the ruling classes of all countries" (*p.* 2023).

The Third or Moscow Internationale is under the control of the same group who constituted the Zimmerwald Association, viz., Lenin, Trotsky, Zinoviev, Rakovsky and Platten. For a while before the Russian revolution in the spring of 1917, Trotsky was in the United States, working on a radical newspaper in the City of New York. Lenin had been in exile, and only returned to Russia after the revolution. It would serve no useful purpose in this report to review the evidence as to the manner in which Lenin and Trotsky deposed Kerensky, dissolved the constituent assembly and established the dictatorship known as the Russian Socialist Federated Soviet Republic, maintained and perpetuated by means of the constitution and decrees of Soviet Russia, in evidence in this proceeding (*Ex.* 41).

An examination of the report, also in evidence before the Committee (*Ex.* 85), made by Robert Lansing, Secretary of State, to Senator Lodge, Chairman of the Senate Committee on Foreign Relations, leads to the inevitable conclusion that the policy of the Bolsheviks, now in control of Russia under the leadership of Lenin and Trotsky, is to obtain by solidarity with like groups in other countries the control of those countries, the overthrow of existing organized governments, and to establish an international dictatorship of the proletariat of all countries.

The call for the Third Internationale, issued from Moscow, so far as is pertinent to our present purposes, is as follows:

"The present is the period of destruction and crushing of the capitalist system of the whole world.

"The aim of the proletariat must now be immediately to conquer power. To conquer power means to destroy the

governmental apparatus of the bourgeoisie and to organize a new proletarian governmental apparatus. This new apparatus must express the dictatorship of the proletariat.

"The dictatorship of the proletariat must be the occasion for the immediate expropriation of capital and the elimination of the private right of owning the means of production through making them common property.

"In order to protect the Socialist revolution against external and internal enemies and to assist the fighting proletarians of other countries, it becomes necessary to disarm entirely the bourgeoisie and its agents and to arm the proletariat." (Ex. 85, p. 424.)

In the proclamation calling to the new Internationale those Socialist groups of other countries who maintained their international affiliation and denied their national allegiance during the war, it is significant that the Socialist Party of America and organizations of similar character in this country are thus described:

"(34) The left elements of the Socialist Party of America (S. P.), especially that group which is represented by Debs and the Socialist Propaganda Association;

"(35) I. W. W. of America. \* \* \*

"(37) Workers International Industrial Union (W. I. I. U.) of America" (Ex. 85, p. 461).

From the Moscow Congress was issued the manifesto adopted March 26, 1919, signed by Rakovsky, Lenine, Zinoviev, Trotzky and Platten addressed to "The Proletariat of all Lands," published under the title of the "Manifesto of the Communist Internationale," characterized by the Literature Department of the Socialist Party (p. 278), by which it was distributed, as "undoubtedly the greatest declaration ever issued from any working class tribunal since the Communist Manifesto of Marx and Engels," and identified by Assemblyman Waldman as the first official document of the Communist Internationale which is the same Internationale that is referred to in the minority report to the Socialist Party as the Third Internationale (p. 1809).

The anti-national and international character of this new movement, with which the Socialist Party of America has allied

itself is evidenced in the following differentiation between the Second and Third Internationale:

"During this period"—the period of the Second Internationale—"the center of gravity of the labor movement rested entirely on national grounds confining itself within the realm of national parliamentarism to the narrow compass of national states and national industries" (p. 289).

The purpose of the Third Internationale as distinguished from the First and Second which preceded it, is thus declared:

"As the First Internationale foresaw the future development and pointed the way; as the Second Internationale gathered together and organized millions of the proletariat, so the Third Internationale is the Internationale of open mass action, of the revolutionary realization, the Internationale of Deeds. Socialistic criticism has sufficiently stigmatized the bourgeoisie world order. The task of the Internationale Communist Party is now to overthrow this structure and to erect in its place the structure of the Socialist world order. We urge the workingmen and women of all countries to unite under the Communist banner, the emblem under which the first great victories have already been won" (p. 290).

Not only has the Socialist Party by its action at the Emergency National Convention at Chicago in September, 1919, adopted this principle and program, but these Assemblymen-elect, their instructors and leaders have made public utterances whose plain and unmistakable meaning shows that they are in full accord and sympathy with the program and principles enunciated in this Moscow Manifesto.

Our interest in this pronouncement of the purposes of the Third Internationale is not abstract. These provisions have a concrete meaning to this country and we are interested in the fact that the Socialist Party of America, by referendum, has affiliated with and become part of the Communist internationale at Moscow, for the reason that that Congress has unequivocally declared its purposes to be the overthrow of all existing governments, our own included, and its aim and only purpose to establish in all countries, the United States included, a dictatorship of the proletariat.

The manifesto concludes as follows:

"Proletarians of all lands: In the war against imperialistic barbarity, against the monarchy, against the privileged classes, against the bourgeois state and bourgeois property, against all forms and varieties of social and national oppression — Unite!

"Under the standard of the Workingmen's Councils, under the banner of the Third Internationale, in the revolutionary struggle for power and the dictatorship of the proletariat, proletarians of all countries, Unite!" (*pp.* 290-291).

We cannot within the limits of this report review in detail all of the evidence that has been introduced before the Committee affecting and characterizing the present international affiliations of the Socialist Party of America. Suffice it to say that it is abundantly established, even proven to the point of demonstration, that the Socialist Party of America is at present committed to a continuing policy of disloyalty. Its members, by virtue of their participation therein, have repudiated their national allegiance and the party and its members have dedicated themselves to the overthrow of the Government of the United States by all available means, dependent only upon national conditions and exigencies. This conclusion results not only from what we have already reviewed, but is the effect, moreover of Referendum "D," adopted last summer by an overwhelming vote, declaring that the party will participate in that Internationale only which includes the Communists of Russia and the Spartacides of Germany; the unanimous adoption of the Chicago manifesto in September, 1919; the adoption of the majority report at the same convention and the subsequent adoption through referendum of the minority report, sent out by that convention for the vote of the members. The evidence, furthermore, consists not only of those official acts to which we have already referred, but also of communications to the official organ by the acknowledged leaders of the party, pamphlets issued by foreign language federations, and other public declarations of the leaders of the Socialist Party of America, and even of some of these five Assemblymen.

We, therefore, find that each and every charge made against the five Socialist Assemblymen in the resolution adopted by the

Assembly at the opening of the session, and thereby accepted as the basis for the inquiry into the qualifications of these five men to seats in the Assembly has been established.

We further find that every charge material to the inquiry into the qualifications of these five men contained in the statement made by the Chairman of the Judiciary Committee, of the *Committee's* "understanding of the matters that are to be brought up for the consideration of the Committee" has likewise been established, and we, therefore, report our determination as follows:

That Louis Waldman, August Claessens, Charles Solomon, Samuel A. deWitt and Samuel Orr, for the aforesaid reasons, are, and each of them is, not obedient to the Constitution and laws of the United States and the State of New York, nor desirous of the welfare of the country, nor in hearty accord and sympathy with its government and institutions, and for said reasons and also because of all the other facts and reasons above set forth they are, and each of them is, disqualified to occupy seats in the Assembly of the State of New York as members thereof;

That because of such disqualification they were and each of them was incapable of taking the oath of office prescribed by the Constitution of the State according to the real intent and purpose of the constitutional provisions requiring the taking of such oath;

That by formally subscribing to said oath their position, in view of their disqualification, is no different than it would have been had they refused to take the said oath;

That they, therefore, are not entitled to have or to hold seats in the Assembly and that the seats to which they are elected be declared vacant.

We recommend that appropriate legislation be enacted to the end that hereafter no party, group or political organization in which aliens are acceptable as members, or whose principles, policies and program are responsive to or determined by an organization, National or State, composed of persons not members of the electorate of the Nation or State, shall be privileged to occupy the position of a political party on the official ballot of this State.

Your Committee, therefore, recommends the adoption of the following resolutions:

*Resolved*, That under the facts and circumstances of this case, Louis Waldman is disqualified to have or to hold a seat in the

**Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.**

*Resolved,* That under the facts and circumstances of this case, August Claessens is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

*Resolved,* That under the facts and circumstances of this case, Charles Solomon is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

*Resolved,* That under the facts and circumstances of this case, Samuel A. deWitt, is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

*Resolved,* That under the facts and circumstances of this case, Samuel Orr is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

With this report there are submitted concurring memoranda by Assemblyman Rowe and Assemblyman Wilson.

Respectfully submitted,  
LOUIS M. MARTIN,

*Chairman.*

GEORGE H. ROWE,

*Vice-Chairman.*

EDMUND B. JENKS,  
EDWARD A. EVERETT,  
EDWARD J. WILSON,  
CHARLES M. HARRINGTON,  
LOUIS A. CUVILLIER.

*Resolved,* That the report of the Judiciary Committee of the Assembly of the State of New York be and the same hereby is, in all respects, adopted by this Assembly.

## MEMORANDA BY MR. ROWE

In the Matter  
of the  
Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT, SAM-  
UEL ORR and CHARLES SOLOMON to  
seats in the Assembly.

The Assembly by appropriate resolution on January 7, 1920, directed the Judiciary Committee to inquire into the qualifications and eligibility of the five assemblymen; namely, Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon and to report its findings and submit its recommendations as to their qualifications to seats in the Assembly for the approval of the Assembly. The record is replete with divers discussions on the history of socialism and the Socialist Party, an analysis of which is a task almost impossible but from which can be drawn certain facts and conclusions.

It has been well known that socialism was recognized in the United States as early as the year 1825 under the names of Owenism and Fourierism. Experiments such as New Harmony, Brookfarm and numerous others, bloomed and faded as time progressed only to finally formulate into an organization known as the Socialist Party. The latter grew in size until it gradually became recognized as a political party and received a place on the official ballots submitted to the people. During its infancy the party's platform and endeavors were confined to securing economic relief, so as to provide in the final analysis a more uniform standard of living, better labor conditions and a comprehensive distribution of wealth to inure to the benefit of all classes. It is proper to say at this time that the party during all of this period of construction was under the leadership of men who were intense in securing their objectives, but were loyal to the form of government under which they had thrived.

Several years before the commencement of the world war in 1914 the party organization gradually became absorbed by men of

foreign extraction who used it as vehicle for selfpolitical advancement and personal gain. The personnel of the party changed and men of a revolutionary type supplanted the former conservative leaders. These radicals took charge of the party and in order to limit its governing power adopted a constitution which provided for the control of the organization by a "group" known as the dues paying members whose elected officials and committees had sole control of the operation of the party.

Their constitution provided that any person of the age of eighteen years and upwards who was a resident of the United States and who had severed his connection with all other political parties and subscribed to the principles of the Socialist Party including the principle of political action was eligible to membership. It is quite apparent that aliens and infants were eligible and were even permitted to become members of the Executive Committee, in which committee the power of directing the destinies of the various elected officials had been securely placed. As the trial progressed evidence was introduced that twenty-five per cent of the members of the dues paying organization in the City of Greater New York were aliens and that of an additional twenty-five per cent no particular data could be secured as to whether or not they were citizens or aliens. It is fair to assume that a greater proportion of this unknown number were aliens. The pledge of the candidates provide for the strict adherence to the mandates of the Executive Committee of this group and also provided that the said candidates should file their resignations in writing with his "local" organization to be used by them should any one of them fail to obey the aforementioned committee.

The five assemblymen in taking this pledge to their party abdicated the function of their office and became mere servants of the so-called Executive Committee of the dues paying group. This party pledge precluded them from taking in good faith the constitutional oath taken as a member of Assembly for the reason that their party platform to which they were pledged contained provisions antagonistic to the plain mandates of both the Federal and State constitutions.

Early in May 1915, by a resolution of the National Committee of the Socialist Party of America and immediately after the sinking of the Lusitania, followed by the presidential platform of the party for the year 1916, a course of activity was clearly defined for the party in the event that America was brought into the

war. Casting aside all consideration as to the character or justification of the war in which America might be involved this Party by its platform declared its unalterable opposition to the war as follows:

"Therefore, the Socialist Party stands opposed to military preparedness, to any appropriations of men or money for war or militarism, while control of such forces through the political state rests in the hands of the capitalist class. The Socialist Party stands committed to the class war, and urges upon the workers in the mines and forests, on the railways and ships, in factories and fields, the use of their economic and industrial power, by refusing to mine the coal, to transport soldiers, to furnish food or other supplies for military purposes, and thus keep out of the hands of the ruling class the control of armed forces and economic power, necessary for aggression abroad and industrial despotism at home."

In the following year of 1917 at its St. Louis Convention the Socialist Party of the United States through its national platform divorced its allegiance to the United States of America and declared its solidarity with the International revolutionary movement of the world. All of its literature, propaganda and speeches of its leaders establishes beyond a shadow of a doubt their repudiation of nationalism and their adherence to internationalism. The platform adopted at this convention to my mind definitely establishes their conduct as disloyal and inimicable to the interests of this country then in war. It specifically provided a plank in its platform for the repudiation of our war debts. Among other disloyal declarations, it stated:

"We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world.

"In all modern history there has been no war more unjustifiable than the war in which we are about to engage.

"No greater dishonor has ever been forced upon a people than that which the capitalist class is forcing upon this nation against its will.

"In harmony with these principles, the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions.

On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action:

"1. Continuance, active, and public opposition to the war, through demonstration, mass petitions, and all other means within our power.

"2. Unyielding opposition to all proposed legislation for military or industrial conscription."

The withdrawal of the sabotage provision of its constitution at this convention, considered with their program for using "all other means within our power" to oppose the success of the war can create but one logical conclusion and that is, that this party intended to take away and relieve itself from all further restraint in relation to sabotage or, in other words, to invite that method of combat and obstruction to our war activities. It was immediately following this convention when it appeared that the disloyal element had full control of the party through its dues paying group that the Socialist ranks began to deplete. Innumerable leaders and thousands of its members who were charter members of the organization and who had builded its political entity on the theory of economic and governmental reform began to realize that this former political vehicle had been turned into an un-American and treasonable organization. It was at this time that Benson and John Spargo, and many others, prominent leaders of the party, publicly criticized the party as being un-American and under the control and leadership of foreign and alien elements.

The Convention of 1917 definitely established the real theory and intent of the radical group of the party. Deception used during the previous years in establishing different interpretations of the meaning of words and phrases of the English language, became now apparent as to their real meaning and intent. The subtle worded manifesto for the year 1916 which advocated the use of a general strike to secure economic relief for the working class now became, after stripping it of its mask, a most evil and dangerous weapon to combat our war activities. The innocent interpretation of the many manifestoes, proclamations and particularly the solemn pledge provided for in their constitution to resist war and to make no appropriation for the maintenance of an army or navy now became clear as being a part of a well defined

plan to divest this country of its ability to resist aggressive war and to prevent internal revolution.

During all this period the Socialist Party of the United States through its leaders persistently adhered to its platform of opposition to our country and to the war and declared its adherence by manifestoes and proclamations to the revolutionary parties of Russia, then under the control of Trotsky and Lenine.

The culminating climax of their activities occurred at the convention of September 26, 1919, at Chicago, Ill. It was there that a majority and minority report in relation to certain constitutional amendments of the Socialist Party of the United States were submitted to the approval of the convention. The minority report, which was radical and revolutionary, was overwhelmingly indorsed and accepted by the rank and file of the dues-paying group when submitted to them by means of a referendum. From the course of deceit and evasive action used by its leaders it is quite apparent that the majority report was openly approved at the convention for the purpose of pacifying government authorities, while secretly a course of propaganda was set on foot to adopt the minority report, which was truly representative of their feelings.

The notice of the Moscow Convention issued by Lenine and Trotsky particularly addressed to the Socialist group in America as headed by Eugene V. Debs is more than convincing when considered with Mr. Hillquit's statement to the effect that after all every branch of Socialism in America was in fact seeking but one particular end, and that the methods used and to be used to secure this end were of little consequence.

It is particularly striking that Mr. Hillquit denied any knowledge of the Moscow manifesto during the time when the convention was being held for it is rather apparent that his own manifesto which was adopted at the Chicago Convention is an almost literal duplication. Its language so closely follows the Moscow manifesto that it is all the more conclusive that the group known as the Socialist Party of America had determined its future course of action by casting their lot with the world-wide revolutionary group. This can be no better defined than by its own words:

"We, the organized Socialists of America declare our solidarity with the revolutionary workers of Russia in the

support of their soviets; with the radical Socialists of Germany, Austria and Hungary in their efforts to establish working class rule in their countries, and with those Socialist organizations in England, France, Italy and other countries who, during the war, as after the war, have remained true to the principles of uncompromising international socialism.

“Long live the international Socialist revolution, the only hope of the suffering world.”

It is fitting to call your attention to the fact that Mr. Hillquit and each of the three Assemblymen who testified in this proceeding hailed Eugene V. Debs as their leader and in every instance praised his leadership and his revolutionary activities. To my mind the acceptance of Eugene V. Debs as the leader of the Socialist Party of America creates the co-called point of contact between that group and the foreign revolutionists as represented by Trotsky and Lenine.

It was at about this time, in the fall of 1919, that the Young Peoples' Socialist League, a recognized group of the Socialist Party of America, boldly indorsed and advocated the Third Internationale and the dictatorship of the proletariat and definitely repudiated the Berne Conference (a convention of Socialists who supported their government during the war) and all Socialist groups that adhered to it.

It has been advanced by the counsel for the five Assemblymen that this Assembly cannot abrogate the right of representation of their constituents on the theory that there is no constitutional provision which permits the expulsion or suspension of these representatives because they possess different theories of government which may be antagonistic to that of the existing form of government and because further they desire to change this form of government by peaceful means. I find no evidence of any merit to indicate that they have attempted to change this form of government by peaceful means, but, on the contrary, I find that they have sought this change by a course of force and violence and by disloyal acts.

It is therefore incomprehensible that any form of government can be menaced by an association, group or even political party which has for its program the destruction and obliteration of that form of government by force and violence. It has never been

questioned that an individual may take such steps and safe-guards as to protect himself from threatening harm and danger and it is true, following this same logic, that any nation or country may take the same course in order to preserve its existence. "The first duty of a state is self-preservation" (Curtis, J., 30 Fed. Cases, p. 1025). "The Highest duty of government is self-preservation. Without it there can be no administration of law, civil or criminal." (Sprague, J., in 3 Fed. Cases, p. 1042).

This principle of self-preservation has ever been advocated and made a part of the platform and program of the Socialist Party of America, for it asserts that if it is successful in establishing its form of government it will provide for military preparation and maintenance to continue its existence. It goes even further in this line of thought by advocating the use of mob rule and terrorism to prevent its overthrow. Yet it has been persistently maintained in this proceeding for the purpose of justifying the activities of this party and group particularly in relation to its opposition to military and naval appropriations that this government has no right by law to protect itself from the unlawful and treasonable propaganda and activities of individuals and groups. In other words, it is maintained that they are unalterably opposed to the maintenance of any military organization as long as they as a party have not the control of that same organization. This inconsistency of their views in advocating the destruction of military preparation and organization in this State can be more readily seen when reference is made to their mandates and printed directions to members of their party calling on them to arm themselves and be prepared for political action at the opportune time.

The Party's intent in using war like terms of speech, particularly in their proclamations, manifestoes and platforms is too apparent and conclusive to give more than passing scrutiny. Notwithstanding the fact that each of the Assemblymen and several of their prominent witnesses have in every instance during the trial endeavored to give a different or passive interpretation of their intent concerning these war like terms we reserve the right to interpret the ordinary meaning of English words and phrases in connection with the Socialist propaganda. Such words and phrases as "Social Revolution" "Solidarity with the revolutionary workers of Russia," "Mass Action," "Dictatorship of the Proletariat," "I am a revolutionist," "I am a Bolshevik,"

"Here comes our ambassador," and many others of similar type are self-evident and need little if any explanation as to the true intent.

It has been contended that the entire program and activities of the dues-paying group have been conducted in the open. Granting this, it is also true, and the evidence clearly indicates this conclusion, that the very frankness of their operations was but a sham and a snare and was but a part of the scheme to change this government by force and violence. In every instance possible they cloaked and veiled by innocent interpretation of war-like terms and overt acts their real intent to follow the plan and program for a "political revolution." The party instituted at the time of the declaration of war in 1917 a great conspiracy against this nation, with its final objective to tear down the present form of government and substitute in its place and stead a form of government similar to that of the Soviets in Russia. We are not concerned as to the methods used by Lenine and Trotzky in establishing the Soviet form of government in Russia only so far as it will indicate by what methods the Socialist Party of America intended to pursue in this country to secure its own objectives. The evidence shows that Trotzky and Lenine at the head of a small armed minority supplanted the Kerensky regime by a bloody revolution, and it is not improbable that had the opportunity been offered at any time during our war activities this group of the Socialist Party of America would have taken the same course of action.

With all of these facts before us, there can be no question but what the Socialist Party of America as dominated, controlled and conducted by the so-called dues-paying group, is a disloyal organization and carries with it a disqualification to all of the members of Assembly adhering to its principles and program, bound to it by a solemn pledge and assisting it by payment of dues. It is admitted that the five Assemblymen whose qualifications are now in question are regular members of this dues-paying organization in good standing. The determination that the party has been disloyal during a great crisis, when loyalty was at a premium, carries with it the indictment that each member of this dues-paying organization, including the five Assemblymen, were and are also disloyal. They therefore lack the very qualification which is primarily necessary for any public officer to possess. Three of the Assemblymen, to-wit, Louis Waldman, Charles Solomon and

August Claessens, by their public speeches, their personal conduct and by their opposition to appropriation for the maintenance of the state militia, have placed themselves beyond the pale of doubt as to their individual disloyalty to this country. However, this evidence showing active, open and personal approval of the party's disloyal program is cumulative. The other two Assemblymen, Samuel Orr and Samuel A. deWitt, are as much disqualified by being an integral part of the dues paying group, and for what it stands, as if they had conducted themselves in the same manner as the other three.

It has been contended that disloyalty is not such a qualification as contemplated by the provisions of the State Constitution, and that even if this body determines that the five Assemblymen have been guilty of disloyalty it has no power to rid itself of them. It has been held that legislative bodies might not impose other qualifications, but it is a well settled rule that no man should be qualified to sit as a member who has not the indispensable qualification of loyalty to his government. In the matter of passing on the credentials of Philip F. Thomas, Senator-elect from Maryland, in the year 1867, Senator Sumner of Massachusetts said:

"But even without this amendment, I can not doubt but that the original text (i, 2, of the Constitution) is sufficiently clear and explicit. It is nowhere said in the Constitution that certain specified requirements and none others shall be 'qualifications' of Senators. The word 'qualifications,' which plays such a part in this case, occurs in another connection, where it is provided that 'each House shall be the judge of the elections, returns and qualifications of its own members'. What these 'qualifications' may be is to be found elsewhere. Searching the Constitution from beginning to end we find three 'qualifications' which come under the head of form, being (1) age, (2) citizenship, and (3) inhabitancy in the State. But behind and above these is another 'qualification,' which is of substance, in contradiction to form only. So supreme is this that it is placed under the safeguard of an oath. This is loyalty. It is easy to see how infinitely more important is this than either of the others — than age, than citizenship, or than inhabitancy in the State. A Senator failing in either of these would be incompetent by the letter of the Constitution; but the Republic might not suffer from his presence. On the other hand, a Senator

failing in loyalty is a public enemy, whose presence in this Council Chamber would be a certain peril to the Republic.

"It is vain to say that loyalty is not declared to be a 'qualification.' I deny it. Loyalty is made a 'qualification' in the amendment to the Constitution; and then again in the original text, when in the most solemn way possible it is distinguished and guarded by an oath. Men are familiarly said to 'qualify' when they take the oath of office, and this the language of common life furnishes an authentic interpretation to the Constitution."

It was also held in the report submitted by the Committee on Privileges and Elections in the investigation of the charges against Senator C. Reed Smoot, from the State of Utah, as follows:

"The Constitution provides (Art. I, Sec. 2, Par. 1) that each House shall be the judge of the elections, returns and qualifications of its own members. It is now well established by the decisions of the Senate in a number of cases that in order to be a fit representative of a sovereign state of the Union in the Senate of the United States one must be in all respects obedient to the Constitution and laws of the United States and of the State from which he comes, and must also be desirous of the welfare of the country and in hearty accord and sympathy with its government and institutions.

"If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation or its government, he is regarded as being unfit to perform the important and confidential duties of a Senator, and may be deprived of his seat in the Senate, although he may have done no act of which a court of justice could take cognizance."

The provision in the Constitution that "no other oath, declaration or test shall be required as a qualification for any office of public trust" does not eliminate loyalty as a qualification for membership in the Assembly nor does it deprive the Assembly of its inherent power to exclude disloyal persons from membership in its body. In taking the oath to support the Constitution of the United States and the Constitution of the State of New York the qualification of loyalty is presupposed for the reason that the

very nature of the Constitutional oath is in itself expressive and declarative of that qualification with which the Constitution is most concerned; to wit, the qualification of loyalty to the United States and the State of New York. Therefore, it is superfluous that a further test of loyalty other than such oath be required. Limitations on the power to require other tests may differ in Federal and State Constitutions, but the requirement of the essential quality of loyalty is the same in both. It is a matter of record in this case that it was conceded in the discussion of the charges by counsel for the five Socialist Assemblymen that if the disloyal charge contained in what we called the "seventh charge" of the resolution appointing this committee were proven such disloyalty must necessarily result in the exclusion from the Assembly of these five men. The portion of the discussion that I refer to is as follows:

"Your last charge I shall refer to, and it is No. 7. It is the only charge which I consider has any merits. You say: 'The Socialist Party of America did urge its members to refrain from taking part in any way, shape or manner in the war and did affirmatively urge them to refuse to engage even in the prosecution of the said war, and did thereby stamp the said party and all of its members with an inimical attitude to the best interests of the United States and the State of New York.'

"That is a fairly definite statement of what the framers of this may have considered to be the truth. That is an issue we are quite willing to meet and I think it will be an issue that they will regret they ever suggested, for we are very certain and positive no proof, no act of the declarations of the party, either in its more prominent councils, or its locals will be found to verify in the slightest degree that statement.

"If this party advocated and urged the members to refrain from taking part in the war in any shape or manner and did affirmatively urge them to refuse to engage even in the production of munitions of war and other necessities used in the prosecution of war and did thereby stamp the said party and all its members, and so forth, if that is proven against the party and these men are members of it, we will have nothing to say except leave these chambers in humiliation. Those of us who know the record of the party are only induced to smile at so unfortunate a statement growing out of such inadequate information.

"The other clauses that you have deal with opinions, deal with regulations, deal with theoretical opinions of the party and these parties should not be placed on trial, because, admitting all of them to be true, they would constitute conditions which might exist consistent with all the requisite qualifications of a man elected to a representative body in a country where liberty exists and the soul of America still throbs."

It is therefore quite certain that the legal phase concerning the qualifications of disloyalty was never contemplated other than constitutional even by the counsel for the five assemblymen.

I, therefore, am of the opinion that Louis Waldman, August Claessens, Charles Solomon, Samuel A. deWitt and Samuel Orr are and each of them disloyal to the United States of America and to the State of New York from which disloyalty they are and each of them is ineligible and disqualified to occupy seats in the Assembly of the State of New York as members thereof; that because of such ineligibility and disqualification they are and each of them is incapable of taking the oath of office prescribed by the Constitution of the State according to the real intent and purposes of the constitutional provisions requiring the taking of such oaths; that they, therefore, are not entitled to have or to hold seats in the Assembly and that the seats to which they are elected be declared vacant.

GEORGE H. ROWE.

## MEMORANDA BY MR. WILSON

In the Matter  
of the

Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT, SAM-  
UEL ORR and CHARLES SOLOMON to  
retain their seats in the Assembly.

This proceeding has been conducted pursuant to a resolution adopted by the Assembly on the 7th day of January, 1920, directing the Judiciary Committee to investigate and report as to the qualifications and eligibility of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon to retain their seats as members of the Assembly of the State of New York.

The resolution, which has been printed in the record, in effect charges that the persons in question, as members of the Socialist Party of America, believe in the forcible overthrow of the government of the United States and the State of New York; that they upheld and were bound by the constitution and platforms of the Socialist Party, thereby stamping them with an inimical attitude to the best interests of the United States and the State of New York, and were consequently disloyal to both state and country.

At the opening of the hearing on January 20, 1920, counsel for the Socialist Assemblymen moved for the dismissal of the proceedings on the ground that the proceedings were without warrant in the Constitution or in the statutes of the State of New York and were illegal and void from every point of view. This motion was very properly denied by the chairman of the committee, as the committee itself had no power to review the action of the House, it having received its instructions to investigate the matter referred to it and to report thereon. Any question as to the legality or propriety of the proceeding is a matter for the Assembly itself to pass upon.

This brings us then, to a consideration of the evidence which has covered a very wide range, and has made a massive record

of over two thousand printed pages, in addition to many other pages of printed exhibits.

The five Assemblymen under investigation are dues-paying members of the Socialist Party of America. This appears from the application cards of Samuel Orr and Samuel A. deWitt, and as to the other three by admission of their counsel for the record.

At the outset it should be noted that while no evidence was presented against Samuel Orr and Samuel A. deWitt, individually, as there was against the other three, that the evidence against the latter as to their individual acts and words, is in the nature of additional or cumulative evidence only, and that in so far as the Socialist Party as a party, is concerned, all five are bound to it by the same ties. This is conclusively shown by the By-Laws of the Socialist Party, New York County, Section 1 of Article XVII of which provides that "*Any person eighteen years of age or over, who agrees to abide by the National Platform and Constitution and Resolutions of the Socialist Party, may become a member of the party.*"

Section 4 of Article XIV provides that "*The presiding officer of the branch shall explain to every applicant before he is admitted to membership, the significance of the class struggle and the uncompromising policy of the Party, and the applicant shall pledge in writing to its recognition and support.*"

A careful study of the Socialist Party platforms, proclamations, pronouncements and resolutions, leads to the firm conviction that the members of that party who have either in writing or by words and acts pledged themselves to the support of the principles therein involved, are in fact disloyal to this state and nation, in peace as well as in war; and from an analysis of the National and State party constitutions it is a question whether or not the party is in fact a political party such as the law contemplates.

On April 6, 1917, the Congress of the United States declared the existence of a state of war between our country and the Imperial German Government. Within a few days thereafter, the Socialist Party of America, then in convention at St. Louis, adopted a Proclamation and War Program proclaiming "its unalterable opposition to the war just declared by the government of the United States." Such proclamation further stated "We——call upon the workers of all countries to refuse support to their governments in their wars." There can be no doubt that in as much as the party knew that war had been declared by the Con-

gress, this was a direct appeal to the workers of the United States to refuse to support this government.

At a time when our country was just entering a war which it was known would require the fullest support and co-operation of all citizens to insure success, this party in the same proclamation declared that "the *only* struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression," And as a fitting climax to this plea to the workers to withhold their assistance from their own country, they declared: "*As against the false doctrine of patriotism we uphold the ideal of international working class solidarity.*"

In justification of the attitude taken, the Socialist Party contends for the right of free speech, (which they are pleased to interpret as license of speech) and the undeniable right of expressing their opinions. There can be no serious doubt that an individual may have the legal right to an expression of opinion, and to state that he is opposed to wars. When however, a large group of persons comprising a propaganda organization but calling themselves a political party, not only express themselves as opposed to the war, but go so far as to call upon all the workers of the country to refuse to support their government in that war, then they go beyond the limit of freedom of speech, transcend the law and attempt to impair the national existence. This is certainly disloyalty, if not treason.

The same St. Louis Proclamation further states: "We brand the declaration of war by our government as a crime against the people of the United States and against the nations of the world" and "In all modern history there has been no war more unjustifiable than the war in which we are about to engage."

And in order to induce the workers to actually refuse their co-operation to the government, they throw out this suggestion: "In harmony with these principles, the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions. On the contrary, the acute situation created by war calls for an even more vigorous prosecution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action."

Among such recommendations were active and public opposition to the war, unyielding opposition to military or industrial conscription, opposition to raising money to pay war expense by issuing bonds, and propaganda against military training.

In other words, upon the entry of our country into the war, the Socialist Party adopted a policy which if it could have been fully carried out by them, would have meant certain and humiliating defeat to the military forces of the United States of America. And yet this same party which would do nothing to assist the United States in its war against the ruthless and barbarous German Imperialism, included in its St. Louis proclamation the following significant language: "In support of capitalism, we would not willingly give a single life or a single dollar; in support of the struggle of the workers for freedom we pledge our all."

Those words inserted in that proclamation at that time can be construed only as meaning that "capitalism" meant the United States, and that "the struggle of the workers for freedom" is equivalent to the establishment of the Socialist or Co-operative Commonwealth.

At the St. Louis convention a resolution was adopted afterward approved by the party membership by referendum, eliminating a section of the Constitution prohibiting the practice of sabotage. On behalf of the Socialists it is claimed that this provision was repealed because it was then a dead issue. It would seem, however, that such action, taken in connection with the recommendations made to the workers as above referred to, had the color at least, of a suggestion to the workers to hinder the war as much as possible by such practice.

The 1917 Socialist Party Platform under the heading "Political Demands" contained the following:

"6. Resistance to compulsory military training and to the conscription of life and labor."

"7. Repudiation of war debts."

While it is true that these sections were deleted by the National Executive Committee, even though the party had adopted them, it shows to what length the party was willing to go to prevent success of American arms and to render the country impotent in the war.

It seems clear that by adhering to the St. Louis proclamation and war program, the five Assemblymen have shown that instead of being in sympathy with their government, they were ready to obstruct, hinder, subvert and destroy it.

One of counsel for the Socialists in summing up, argued that this Committee could not pass upon the question of loyalty or

disloyalty of the Assemblymen under charges, as that was purely a matter of opinion. True, it is a matter of opinion, but it may be expressed nevertheless; and in laying a basis for what the Committee deems disloyalty, it is of particular interest to ascertain what Socialists call "treason."

Subdivision (b) of section 3 of Article IX of the National Constitution of the Socialist Party, reads as follows:

"(b) No member of the Socialist Party shall, under any circumstances, vote in any political election for any candidate other than Socialist Party members nominated, endorsed or recommended as candidates by the Socialist Party, or advocate voting for them. *To do so will constitute party treason* and will result in expulsion from the party."

It is submitted that if it is "party treason" for a member of the Socialist Party to cast a vote at an election for the nominee of some other party, then active opposition and open hostilities to the government, if not national treason, is at least disloyalty.

It is charged, and there is some evidence in the case to sustain such charge, that the Socialist Party is revolutionary and advocates the overthrow and destruction of our form of government in favor of the Russian Soviet system, peaceably if possible, forcibly if necessary.

It will be recalled that the St. Louis proclamation contained the statement that "The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression."

This language would indicate that force was intended to gain the desired ends and was justified for such purpose. Another meaning is attempted to be given these words by witnesses for the Socialists. Mr. Lee says it applies to countries where the workers have no right of the ballot and cannot, therefore, gain their freedom by political methods, such, for instance, as the conditions in Russia under the Czar. Mr. Hillquit interprets it as meaning that after the Socialists have established their government by gaining political control, the workers would then be justified in taking up arms to defend their government from the assaults of a resisting minority. Neither of these definitions is sound or applicable.

If Mr. Hillquit's interpretation is accepted, there then could be no necessity for such a statement, for he presupposes the existence of the Socialist regime, in which event resistance to a minority would properly be the function of the government. Under Mr. Lee's explanation there is no possible excuse for such a proclamation in so far as the Socialists in this country are concerned. The only natural explanation of this language is that it was intended to apply to the United States and not to some other country, and constitutes a part of the Socialist program in attempting to take control of this government, and is propaganda directed to the workers to assure them that they will have the support of the Socialist party if they will take up arms in the struggle referred to.

There is much evidence in the case, taken from Socialist speeches and letters, as well as party declarations, showing that the Socialist Party of America bears allegiance to those Socialists of other countries who have been the most radical and revolutionary. The minority report of the 1919 Chicago Socialist Convention, which was the report adopted by the party membership, declared for such Internationale only as should include the most revolutionary groups, such as the Russian Communists or Bolsheviki, the Spartacides of Germany and the uncompromising radical Socialists of France and other countries. The Socialist Party of America has repeatedly criticised those European Socialists who stood by their own countries in the war, and take their position with those who have consistently been revolutionary in fact as well as in name.

It is fair to assume that in selecting as associates those they do, the American Socialists approve and adopt as their own, the principles and practices of such associates. In Germany, which is now said to be a Social Democracy with the right of the ballot, it appears that the Spartacides have within the last few weeks made a forcible attempt against the government.

The Socialist propaganda is full of words and phrases which to the average mind mean force and nothing but force; and the speeches which have been read in the record have a strong undertone of revolutionary action. While the documents and speeches which are part of the Socialist propaganda are susceptible of explanation, the words used are no doubt intended to incite the workers to forcible action.

It is claimed that by reason of the membership of the five Assemblymen in the Socialist Party, and their adherence to the

party constitution and platform, they have precluded themselves from taking the oath of office and are thereby disqualified.

The constitutions of the Socialist Party, both national and state, contain a number of provisions which may well be taken up and considered at this point.

Section 6, Article II, National Constitution, provides: "Any member of the Socialist Party, elected to an office, who shall in any way vote to appropriate moneys for military or naval purposes, or war, shall be expelled from the party."

A practical application of the principle involved in this section would destroy the military and naval forces of the state and nation by cutting off all appropriations therefor. This would leave the country open to attack from within or without, and would make the government an easy victim of the "Social Revolution." Is that the plan of the party? It may well be said to be so, as this prohibition on the vote for such appropriations is apparently of such vital importance to the Socialist Party, that any of its members elected to office, would be expelled from the party if they failed to be bound thereby.

Section 3, Article IX of the National Constitution reads as follows:

"Sec. 3. (a) The Platform of the Socialist Party shall be the supreme declaration of the party, and all state and municipal platforms shall conform thereto. No state or local organization shall under any circumstances fuse, combine or compromise with any other political party or organization, or refrain from making nominations, in order to favor the candidate of such other organizations, *nor shall any candidate of the Socialist Party accept any nomination or endorsement from any other party or political organization.*"

In other words, the Socialist Party demands that any of its members elected to public office shall know no duty other than that to the dues paying members, and for that reason will not permit one of its members to accept a nomination or endorsement from any other party, lest the other party might have some influence over the elected officer. The constituents of an elected Socialist consists apparently of the dues paying members of the Socialist Party, and no others.

Section 13, Article I of the Socialist Party Constitution, State of New York, provides as follows:

"Suspension and Expulsion. Sec. 13. (a) A member may be expelled from the party, or may be suspended for a period not exceeding one year for the following offenses:

"(b) For supporting or aiding in the election of a candidate for any office, in either a primary or final election, of any other than the Socialist Party, or in opposition to the regularly selected candidates of the Socialist Party.

"(c) For accepting the endorsement of a party other than the Socialist Party.

"(e) For accepting or holding any appointed position, under a non-Socialist administration, except a civil service position or a position to which the Socialist Party is entitled under the law.

"(f) For failing or refusing, when elected to a public office or while acting as a delegate to an official party convention, to abide by and carry out such instructions as he may have received from the dues paying party organization or as prescribed by the state or national constitutions."

Under the provisions of the first three subdivisions above, a dues paying member of the Socialist Party is under pain of suspension or expulsion if he votes for a candidate on any ticket other than the Socialist; for accepting the endorsement of any other party if he is a candidate for public office, or for accepting an appointment to public office by anyone other than a Socialist. What is the reason for such drastic provisions, which prevent a citizen from exercising his judgment in the right of franchise, and preclude him from accepting a position in the public service if called upon by some one not in his party? This does not look like a political party such as the people of this State would expect to encounter, nor such as the law contemplates.

Subdivision (f) above quoted, will be considered in connection with Article XIII hereinafter set forth.

Section 15 of Article I of the State Socialist Constitution contains the following:

"The charter of any local may be revoked for the following reasons:

(b) For aiding in the nomination to any political office of any person *not a dues paying member* of the party."

Here the Socialist Party goes so far as to dictate who its members shall nominate for public office. No matter how many citizens may be enrolled as Socialists, unless they belong to the select circles and pay dues therein to help support the insidious propaganda of the party, they are not eligible as Socialist candidates for public office, and any local which would aid such a person to secure nomination may suffer the penalty of having its charter revoked. This, like many other rules and provisions of the Socialist Party, is un-American and opposed to the best traditions of this democratic government.

Sections 1 and 2 of the Socialist State Constitution (Article VIII) provide as follows:

"Section 1. All candidates for public office or appointees for public office selected by the dues paying membership of the Socialist Party of the State of New York, or any of its subdivisions, shall sign the following resignation blank before nomination is made official, or appointment is made final:

"Section 2. Recognizing the Socialist Party as a purely democratic organization, in which the source and seat of all power lies in the dues paying membership, as an elected (or appointed) official of the party it shall be my duty to ascertain and abide by the wish of the majority of the dues paying members of my local or political subdivision.

"To the end that my official acts may at all times be under the direction and control of the party membership, I hereby sign and place in the hands of Local . . . . ., to which I may be elected (or appointed), such resignation, to become effective whenever a majority of the local shall so vote.

"I sign this resignation voluntarily as a condition on receiving said nomination (or appointment), and pledge my honor as a man, a Socialist, to abide by it."

The foregoing provisions and subdivision (f) of section 13 of Article I. which provides for suspension or expulsion of an elected official in failing or refusing to carry out the instructions of the dues paying membership of his local, should be read and construed together.

Can a person who has been elected to public office conscientiously take the constitutional oath of office and properly serve the people of the State when he is already bound to a group composing only a small fraction of his constituents to do their bidding, and

has already placed in their hands, or agreed to place in their hands, his written resignation from the office he holds, and to be used against him if he fails to carry out the instructions of this particular group?

When a person is elected to the Legislature of the State of New York he is placed in that position to represent to the best of his ability and according to his judgment, the whole people of the State, as well as those of the district from which he comes. In order to live up to his oath and obligation to the state he must be free and unfettered, under no binding obligation to any person or group of persons, and if he is so bound the office should be declared abdicated and his place vacant.

In this connection attention is called to the case of *People v. Squire*, 20 Abb. New Cases, 368. In that case one Squire had been nominated for the office of commissioner of public works in the City of New York. On the same day of the nomination said Squire addressed a letter to one Flynn as follows:

"In consideration of your securing not less than four county Democratic aldermen who shall vote for my confirmation as commissioner of public works, in the event that the mayor shall send in my name for that office, I hereby agree to place my resignation as commissioner, in case of my confirmation, in your hands whenever you may demand the same, and further, to make no appointment in said office without your approval, and to make such removals therein as you may suggest and request, and to transact the business of said office as you may direct."

The case came before the court on a demurrer to the indictment charging Squire, Flynn and others with conspiracy, and in the opinion overruling the demurrer the court used the following language:

"It is claimed that this count does not state any offense which is known to the law, and that, therefore, the demurrer should be sustained. It is said that it is perfectly proper that two or more persons should attempt to procure the appointment of another to an office, and that there is no allegation in this count that any corrupt means were resorted to, or agreed to be resorted to, in procuring the nomination and appointment of the defendant Squire. I do not so read the

count. *The fair construction of that count is, that, in consideration of the obtaining of such appointment, Squire would in effect abdicate his office and place his resignation in the hands of Flynn, in case of his confirmation, whenever the same might be demanded, and make no appointments in said office without Flynn's approval, and to make such removals therein as Flynn might suggest and request, and transact the business of said office as he might direct.*

*It seems to me that there is there stated a conspiracy for the perversion or obstruction of justice, and certainly of the due administration of the laws."*

The case above cited has a number of features parallel to the facts in this investigation. The agreement to file the resignation is present in both cases, as is the duty to be bound in the conduct of the office by some one other than the elected or appointed official. In the Squire case the candidate for appointment agreed to make his appointments as directed by Flynn. In the case at bar we have a provision of the Socialist State Constitution (Section 4 of Article VIII) which requires elected Socialist officials to submit the names of proposed appointees to the locals for approval, constituting a tacit agreement at least, to be bound by wishes of such locals. Under the Socialist Party system the candidate for public office is required by constitutional provision to sign and file his resignation in advance with the local, as a condition precedent to securing the nomination "to the end that my official acts may at all times *be under the direction and control of the party membership,*" namely, the dues-paying members of the Socialist Party in his district.

A Socialist elected as member of Assembly does not go to the Legislature to enact laws and perform his duties according to the best of his ability and the dictates of his conscience, but according to the dictates of a small group of persons who have him bound hand and foot to serve them and not the people of the State.

Testimony has been offered to the effect that this constitutional provision is a dead letter and that advance resignations are not now required. As late as 1916, however, the National Executive Secretary of the Socialist Party directed a letter to the various locals calling their attention to the importance of enforcing this provision. It is worthy of note that the same witnesses who

testify relative to this matter, are the same ones who stated that the anti-sabotage section in the National Socialist Constitution was repealed three years ago because that was a "dead issue." The section requiring advance resignations although a "dead issue" still remains as a part of the State Constitution.

In the Squire case the Court said: "The fair construction of that count is, that, in consideration of the obtaining of such appointment, Squire would in effect abdicate his office and place his resignation in the hands of Flynn." So, in this case, the fair construction of the Party constitution is, that in consideration of obtaining the nomination for Member of Assembly, the five assemblymen would in effect abdicate their offices and place their resignations in the hands of their respective locals. In the Squire case it was held that "It seems to me that there is there stated a conspiracy for the perversion or obstruction of justice, and certainly of the due administration of the law." So here, it would seem that there is in the effect of the Socialist Party constitution and the adherence thereto by the five assemblymen, a conspiracy to pervert the due administration of the law.

Realizing that the claim has been made that the resignations are not in fact required, and that there is no evidence in the case to show that the Assemblymen ever signed and filed such resignations, still the principle involved is the same.

The agreement to support the Socialist Constitution, which directs the giving and filing of the resignation, thereby putting the candidate or office holder in the position where he may be called upon at any time for the resignation, constitutes as much of an offense as the physical act of signing and filing it. In the Squire case no resignation was actually given, yet the agreement so to do was held sufficient ground to sustain the indictment.

In this connection attention is called to some provisions of the by-laws of the New York County Socialist organization. Section 1 of article XVII provides that "Any person 18 years of age or over, who agrees to abide by the National Platform and Constitution and *Resolutions* of the Socialist Party, may become a member of the party." Here, then, we have an organization claiming to be a political party, which admits to membership minors and aliens, and clothes them with the power to dictate the course of action to elected public officials. Further, the party not being satisfied with requiring its members to support its platform

and constitution, lays upon all members the obligation to abide by the "*Resolutions of the Socialist Party.*"

Following out the resignation provision in the State constitution, the New York County Organization incorporates in its by-laws a similar provision differently worded, in section 8 of article XXVII as follows:

"Sec. 8. On accepting a nomination of the Party for public office, the candidate shall at once give to the Executive Committee a signed resignation, dated ———, of the office for which he is nominated and shall assent in writing to its being filed with the proper authorities if, in case of election, *he proves disloyal to the Party.*"

The phraseology of this section is absolutely mandatory, even though the claim is made that it is not enforced, and it is a significant fact that under this particular provision the right of an elected public official to hold and retain his office is a test of party loyalty. Not whether the official performs his duty to the satisfaction and interest of the public, but does he prove loyal to the dues-paying members of the Socialist Party. It must here be borne in mind that under the Socialist State Constitution an elected Socialist public official may be expelled from the party "for failing or refusing to abide by and carry out such instructions as he may have received from the dues-paying party organization," and this section of the New York County by-laws gives the local power to file the resignation of the public official "if he proves disloyal to the party." That is to say, an elected Socialist official is not in fact the holder of the office to which he has been elected, but must be subservient to the wishes of the dues-paying members of the local, on pain not only of expulsion from his party, but withdrawal from the public office to which he has been elected.

Taking up briefly the aims and purposes of the Socialist Party of America, and the character of the organization.

There is abundant evidence in the record, as shown by various proclamations, resolutions and platforms, to warrant the conclusion that this party is in full accord and sympathy with those groups in other countries which advocate force and violence in the overthrow and destruction of existing so-called capitalist governments, and that the Socialist Party of America is recognized by these other groups as being of the same mind.

The call for the "Third Internationale," entitled "Proclamation calling the first congress of the Communist International," issued in February, 1919, contains this language:

"8. The old International has been divided in three main groups; the frank Socialist-Chauvinist, who, during the whole imperialistic war, 1914-1918, supported the bourgeoisie and undertook the role of executioners of the laborers' revolution; the "Center," the theoretical leader of which is Kautsky, and which within itself contains mostly wavering elements, who are unable to follow any decided lines, but sometimes are clearly traitorous to the international; and finally the Left Revolutionary Wing."

"10. It is necessary to organize the revolutionary elements among the workers who have not as yet joined the socialist parties, but completely stand on the side of the proletarian dictatorship in the form which it has assumed in the Soviet system. Such are first of all the syndicalist elements of the workers."

"11. Finally it is necessary to include all proletarian groups or organizations which, if they have not openly joined the left Revolutionary movement, show, however, tendencies in that direction."

"12. We propose that in the Congress should participate representatives of the following parties, groups and movements (which have the right to full membership in the Third International):

(1) Spartacus-Association of Germany; (2) The Communist Party (Bolshevik) of Russia; . . . (33) Socialist Labor Party of America (S. L. P.); (34) "The left elements of the Socialist Party of America (S. P.) (*especially that group which is represented by Debs and the socialist propaganda association*); (35) I. W. W. of America; . . ."

Among those invited to attend this congress we find not what had heretofore generally been known as the Socialist Party in the United States, but rather "The Left elements of the Socialist Party of America, *especially that group which is represented by Debs.*" It is evident that the old line moderate and parliamentary Socialists were not wanted, but those only who were inclined to be radical, revolutionary and violent. It is significant that with

nearly one accord the witnesses for the Socialists declared themselves for Debs for President of the United States in 1920, and looked up to him as the great leader of their movement.

Debs is undoubtedly the human inspiration of that part of the Socialist Party to which the five assemblymen under charges belong, and that is the group invited to attend the Third International along with the Socialist Labor Party of America, the Sparticides of Germany and the Russian Bolsheviks. The call for the congress was signed by the Russian Communist Party (Lenine and Trotsky) and the Socialist Labor Party of America, among others.

The witness Collins testified that the Socialist Party, the Socialist Labor Party, the I. W. W., and kindred organizations, were part and parcel of the same movement, and the call for the Third International would seem to bear him out.

From the record it appears that many members have resigned from the Socialist Party of America within the last year or two, among them being a number who had previously been looked upon as real leaders of the party. One of them, Allen L. Benson, candidate for President of the United States in 1916, explained his withdrawal as follows:

"The Socialist Party differs (from other parties) in this; that it has among its leaders an undue percentage of the foreign born.

"A few men in the party, who should have known better, have accepted and proclaimed the false doctrine that a workman can have no country, and, therefore, that it is immaterial to him whether the country in which he lives, if it be at war, shall be defeated or not. Such men seem quite unconscious of the fact that this is the doctrine of Proudhon and Bakunin, the anarchists, rather than that of Marx, the Socialist."

"For these reasons I now take leave of the Socialist party a year after I ceased to agree with it. It seemed to me that, having been at the head of the National ticket two years ago, it was particularly my duty to wait and see if the party would not right itself. It has not righted itself. *I, therefore, resign as a protest against the foreign-born leadership that blindly believes a non-American policy can be made to appeal to many Americans.*"

The witness Branstetter, who has been National Executive Secretary of the Socialist Party only since October, 1919, in having the statement of Mr. Benson called to his attention, testified that the characterization as to the foreign-born leadership of the Socialist Party was not true. In answer to the question "Do you question Mr. Benson's veracity?" the witness replied: "I do not question his honesty of intention. I do question his understanding of the position of the Socialist Party leadership."

It certainly seems as though a man who stood high enough in the councils of the party to be its candidate for President of this great country, is in a better position to know the character of the leadership of that party, than a person who has been occupying the paid position of National Executive Secretary for a period of but four or five months.

We believe, from the evidence produced, that it has been proven beyond a reasonable doubt that the Socialist Party of America is disloyal and un-American, and advocates the destruction of this government by force and violence, if necessary; that the five assemblymen under investigation, by having become members of the dues-paying organization and agreed to support the Socialist Party constitutions, platforms and resolutions, are likewise disloyal and un-American and believe in the overthrow of this government by the same violent means; and we therefore hold that those charges against the said assemblymen which accuse them of disloyalty and the advocacy of force and violence in the destruction of the governments of the United States and the State of New York, have been amply sustained.

Having made such determination of the facts, the sole question remaining is as to what power the Assembly has to take further action in the case.

This proceeding was instituted pursuant to the provisions of Section 10 of Article III of the Constitution of the State of New York, which provides that "Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members."

Counsel for the Assemblymen, while not denying the right of the Assembly to judge the qualifications of its own members, raise the contention that the only qualifications which can be so judged, are those legal qualifications as to age, residence and citizenship, together with such question of eligibility as is ex-

pressly provided for in Section 8 of Article III of the State Constitution which provides that

“No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or officer under any city government.”

Counsel further contends that not only is there no power to add to the legal qualifications, but that the Constitution itself expressly prohibits such action by Section 1 of Article XIII, which, after prescribing the form of oath to be taken by members of the Legislature and other public officers, contains the following language: “And no other oath, declaration or test shall be required as a qualification for any office of public trust.”

It is claimed that “And no other \* \* \* test shall be required” necessarily means that so long as a Member of Assembly has the qualifications of age, residence and citizenship, and has taken the constitutional oath of office, no matter what his attitude may be toward the institutions of the State and its form of government, he should still be permitted to sit in its Legislature.

With this conclusion we cannot agree. It is not reasonable to assume that the framers of the Constitution would wilfully have inserted a provision therein which would prevent the Legislature from ridding itself of members who were disloyal to the State and the Nation, nor do we believe that there was ever any such intention to do so. Rather, it is more sensible to interpret the language as a bar to the requirement of a particular test of a religious or class character. If the framers of the Constitution had had any idea that enemies of the State would ever be elected to its Legislature, we make bold to state that an express and binding test of loyalty would have been prominently and conspicuously inserted therein.

In the case of *Rogers v. The Common Council of the City of Buffalo* (123 N. Y. 173) the court, after briefly reviewing the history of test oaths formerly required in England, but without giving its own interpretation of the language used in the constitutional provision here referred to, says: “The Federal Constitution has declared that ‘no religious test shall ever be required as a qualification to any office or public trust under the United

States.' That provision undoubtedly was inserted for the same reason which led to the insertion of the somewhat similar one of our State Constitution."

From the above it would appear that the court rather takes the view that the provisions in both State and Federal Constitutions were placed therein to prohibit the exacting of religious tests, which we believe is the proper construction.

Upon the point of the propriety of this proceeding under section 10 of Article III of the Constitution of the State of New York, counsel on both sides have cited many precedents, none of them exactly parallel to this case; a few of them slightly analogous, but most of them distinctly inapplicable. In a review of these precedents we think that the report of the committee in the Smoot case (1 *Hinds' Precedents*, 561) is the proper rule to follow in a proceeding of this nature. That part of such report which states the rule is as follows:

"It is now well established by the decisions of the Senate in a number of cases, that in order to be a fit representative of a sovereign State of the Union in the Senate of the United States, one must be in all respects obedient to the constitution and laws of the United States, and of the State from which he comes, and must also be desirous of the welfare of the country and in hearty accord and sympathy with its government and institutions. If he does not possess these qualifications, if his conduct has been such as to be prejudicial to the welfare of society, of the nation, or its government, he is regarded as being unfit to perform the important and confidential duties of a Senator and may be deprived of his seat in the Senate, although he may have done no act of which a court of justice could take cognizance."

Judge Cooley in his work on Constitutional Law, in setting forth the proper discretionary powers of legislative bodies as to the personnel of such bodies, states the law as follows:

"Each house has also the sanction to punish members for disorderly behavior and other contempts of its authority, as well as to expel a member for any cause which seems to the body to render it unfit that he continue to occupy one of its seats. This power is generally enumerated in the Constitution among those which the two houses may exercise,

but it need not be specified in that instrument since it would exist whether expressly conferred or not. It is a necessary and incidental power to enable the House to perform its high functions and is necessary to the safety of the State; it is a power of protection."

On behalf of the five Assemblymen there has been introduced as an exhibit, apparently for the purpose of attempting to justify the actions of the Socialist Party of America relative to the war, a collection of excerpts from letters and speeches of well known men in American history. Among these are two excerpts from a letter and a speech of Charles Sumner wherein he stated his opposition to the Mexican War and characterized it as an unjust war. In passing, it should be noted that although he openly criticised that war, he did not form a group or party for the avowed purpose of bringing about the defeat of his own country, neither did he advocate openly or by inference, the destruction of his government.

Charles Sumner was an American and a patriot; and in connection with the point under consideration as to the right of the Assembly of the State of New York to exclude disloyal persons from its membership, we quote from a speech of the same Charles Sumner on the floor of the United States Senate, in a proceeding to expel Senator Stark from a seat in that body. The Stark case is reported in Vol. 32, Part 1 of the Congressional Globe at page 269.

Senator Sumner on that occasion spoke as follows:

"It is said that the proposition now before the Senate is without a precedent. In the occasions to which new duties arise, new precedents are to be made when the occasion requires. Never before in the history of our government has any person appeared to take a seat in this body whose previous conduct and declarations, as presented to the attention of the Senate, gave reasonable ground to distrust his loyalty.

"This case, sir, is without a precedent. It devolves, therefore, upon the Senate to make a precedent in order to deal with unprecedented cases. This Senate is at this moment engaged in considering the loyalty of certain members of this body, and it seems to me it would poorly do its duty if it admitted, amongst its members, one with regard to whom has come forward to take the oath there was a reasonable suspicion."

It would seem that this case falls within the rule as laid down by the United States Senate in the Smoot case, but even though there may be no well established precedent, we feel as Senator Sumner felt nearly sixty years ago, that new occasions demand new precedents.

The determination of the questions involved in this proceeding is of supreme importance not only to the Assembly; not only to the State of New York, but to every State in the Union and to the United States of America as a whole.

We will surely do our duty poorly if we permit disloyal persons to sit in our Legislative Halls. We have no hesitancy whatever in making a new precedent if a new precedent in fact it be, for we realize keenly that the preservation of the American Republic is of greater moment than the narrow construction of a constitutional provision or the following of established precedents in other cases.

Having found that sufficient charges have been sustained by the evidence, and having determined that the Assembly has the power to take such action in the premises as it deems best,

We recommend that the Assembly deny to Louis Waldman, August Claessens, Samuel Orr, Samuel A. deWitt and Charles Solomon, the right to their seats in the Assembly of the State of New York.

EDWARD J. WILSON.

## MEMORANDA BY MR. LOWN

In the Matter  
of the  
Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT,  
SAMUEL ORR and CHARLES SOLOMON  
to seats in the Assembly.

In as much as I concur in much of the opinion prepared by the Chairman and counsel for the Committee, I deem it unnecessary to encumber the record with another long review of the evidence. There can be no difference of opinion as to what the evidence is; our conclusions only differ.

I concur with the majority committee's report as to the power of the Assembly to expel these Assemblymen for any individual disqualification.

I concur with so much of the report as finds that the Socialist Party of America during the World War conducted a disloyal propaganda according to our standards of loyalty and that of the vast majority of the American people and I join in the condemnation of this attitude.

I dissent from the view that the evidence fairly construed shows that the Socialist Party is a conspiracy to overthrow this government by force and violence and not a political party. The Socialist Party has been a recognized political party in this State for upwards of twenty years. The requirements of membership therein and its system of control by the dues-paying members has been the same during all that time. Under this system of control its members have sat in the State Legislature and in the House of Representatives at Washington without question. The war program of the Socialist Party of America while unpatriotic according to our standards of patriotism did not disclose the overt acts of violence against the government necessary to convert it from the status of a political party to that of a criminal and treasonable conspiracy against the government. The adoption of the Moscow Internationale by the adoption of the minority

report of the Socialist Convention is so doubtful in its wording as to leave a reasonable doubt as to its real meaning and the time of its adoption is so uncertain that it cannot fairly be said to have been a part of the party program before the November elections. It is, however, of sufficient importance, taken with the other evidence in the case, to warrant legislation making it impossible in the future for a political party permitting aliens in its membership to have a place on the official ballot in this State. Having come to this conclusion I recommend the reseating of Messrs. Samuel Orr and Samuel A. deWitt against whom as individuals, substantially no evidence has been introduced except membership in the Socialist Party on the ground that to exclude them for this reason alone would be to violate the provisions of section 1 of Article XIII of the Constitution of the State of New York providing "No other oath, declaration or test shall be required as a qualification for any office of public trust," and furthermore on the ground that it would violate our fundamental principles of representative government.

As to Assemblyman Louis Waldman, against whom evidence has been introduced as an individual, I recommend as follows:

That said Louis Waldman be expelled from membership in this House because he, as the subject of a foreign power, came to this country, applied for citizenship in the United States and, as a condition precedent to obtaining this favor, took a solemn oath to support and defend the Constitution of the United States; that soon thereafter in 1915 or 1916, when it was becoming apparent that the European war was threatening the United States he strove to weaken the defense of the United States by signing an anti-enlistment pledge whereby he refused to enlist in any international war, offensive or defensive, and furthermore to withhold his approval from any one else so enlisting. This fact coupled with his indorsement of the Moscow manifesto, his speech at the Chicago convention and the other evidence in the case convinces me that he is still an alien to this country at heart and a citizen only in form and as such he should not be allowed to sit in this Assembly to make laws for this State.

As to Assemblyman August Claessens against whom individual evidence has been introduced the facts are essentially the same as those above mentioned in the case of Louis Waldman. Claessens was born abroad, made the same representations in order to become a citizen of the United States and took the same solemn oath of

allegiance to the United States as a condition precedent to his admission as a citizen. As soon as danger threatened this, his adopted country, he became part of the propaganda to deprive this country of an adequate army to defraud itself by signing the same kind of an anti-enlistment pledge as that signed by Assemblyman Waldman. It is a fair conclusion from the last line of this pledge whereby the signer withholds his approval from any one else doing so; that is, enlisting, that this was part of a well formed plan to discourage enlistment and thereby weaken the defensive system of this government in the face of impending danger. This was a violation of the spirit of his oath of allegiance at least, and if my conclusions are correct was a violation of the letter of the oath also. This demonstrates that he is not in harmony with the spirit of American institutions which, taken with his intemperate speeches his revolutionary associations and his unqualified indorsement of the Socialist program as it exists today after the adoption of the Moscow Manifesto forces me to the conclusion that he is not a fit law maker for this State and should therefore be expelled from this Assembly.

In the case of Charles Solomon, the other Assemblyman against whom individual evidence was introduced, the whole evidence tends to show that he is a revolutionary Socialist as he himself admits. The fair conclusion from all the evidence in the case is that the term "revolutionary" in his case should be construed to mean that he is in opposition to the government as it now exists and is in favor of overthrowing it by peaceful means if possible, but by forceful means if necessary. I, therefore, recommend that he be expelled from the Assembly.

For the above reasons I recommend the expulsion of Louis Waldman, August Claessens and Charles Solomon from the Assembly of the State of New York and the reseating of Samuel Orr and Samuel A. deWitt.

JAMES M. LOWN.



## MEMORANDA BY MESSRS. PELLET AND STITT

In the Matter  
of the  
Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT, SAM-  
UEL ORR and CHARLES SOLOMON to  
Retain their Seats in Said Body.

By resolution adopted by the Assembly January 7, 1920, the Judiciary Committee was directed to investigate as to the qualifications and eligibility of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon and make a report thereon to the Assembly.

The five Assemblymen mentioned were accordingly notified to appear before the Committee, which they did in person and by counsel, while the Committee was represented by the Attorney General and counsel associated with him.

The widest latitude was given to counsel on both sides, which resulted in the production of a great mass of evidence consisting of oral testimony and written documents concerning the aims, objects and purposes, both theoretical and in practice, of the Socialist Party of America, known in the State of New York as the Socialist Party, of which the five Assemblymen under investigation are members and to which aims, objects and purposes, by proof as well as by concession, it has been shown they subscribed.

The evidence discloses that the Socialist Party of America during the late World War recognized no duty to aid or support the United States in the part it took in that war and that the members of the Socialist Party generally, while willing to take advantage of the opportunities offered and protection guaranteed by the United States, declined and refused to render any service to sustain the government under which they lived and in this

respect the attitude of the Socialist Party merits the severest condemnation as un-American and unpatriotic. No evidence, however, was produced to show that the attitude of the Socialist Party of America was other than a negative one of withholding aid and comfort to the United States rather than a positive one of giving aid and comfort to its enemies.

Public speeches of August Claessens, Charles Solomon and Louis Waldman were offered in evidence. Counsel for the Committee, both orally and in their brief, argued that such evidence as to the individuals was offered to show the attitude of members of the Socialist Party of America generally and that all five members stand before the Assembly as such members.

Section 10 of Article III of the Constitution of the State of New York provides that each house of the Legislature shall "be the judge of the elections, returns and qualifications of its own members." Under this section, we have no doubt of the absolute power of the Assembly to exclude from membership any person whatsoever and for any reason that it may determine sufficient and that the action of the Assembly is final by reason of the fact that there is no forum which can review its action.

Because our action is final and because of the serious consequences to the five Assemblymen and to their constituencies, the right which the Assembly possess must be exercised with the greatest care and with due regard to the principles involved.

The courts of this State have held that the Legislature has no power to establish arbitrary exclusions from office or any general regulations requiring qualifications which the Constitution has not required (*Barker v. People*, 3 Cowen, 689) and that the Legislature cannot require an oath of loyalty as a pre-requisite to the exercise of the right of suffrage (*Green v. Shumway*, 30 N. Y., 418) and that the Legislature cannot require, as a condition for holding a certain office, that a person shall be a member of one of two political parties (*Rathbone v. Wirth*, 150 N. Y., 459).

In connection with these cases, the courts have construed the meaning of the word "test," as used in Section 1 of Article XIII of the Constitution, which provides that "no other oath, declaration or test shall be required as a qualification for any office of public trust" than the oath to support the Constitution of the United States and the Constitution of the State of New York and the oath relating to bribery in elections.

In *Rathbone v. Wirth*, Judge O'Brien said that Article XIII comprehends more than a mere prohibition of test oaths, such as are familiar to the student of English history, and "deprives the Legislature not only of all power to exact any other oath, but also any other declaration or test as a qualification for office."

If the Legislature cannot by statute prescribe membership in a political party as a condition for holding office, nor the taking of an oath of loyalty as a condition for exercising the right to suffrage it necessarily follows that the Legislature should not by resolution exclude from membership a duly elected member by reason of his membership in a particular party or group.

A Legislature is composed of individuals chosen from different constituencies of varying political and economic views to meet together and determine what laws are best for the people as a whole. To exclude a duly elected member because of membership in a particular political party or because of his political or economic views not only would be contrary to the spirit of the Constitution, but would be a most dangerous attack upon the right of representative government and free political action, the fundamental principles upon which our republic was founded.

With these propositions in mind, the question necessarily arises as to whether the Socialist Party is a political party. It has long been recognized as such and has by the law of the State been permitted to take part in primaries and to have a place on the official ballot. Its candidates have been permitted to sit in previous houses of the Assembly and to hold various offices of trust and profit throughout the State. At the election at which the five members were chosen the electorate had a right to suppose that, if elected, their chosen representatives would not be excluded from taking part in the deliberations of the Assembly solely by reason of the fact that they were Socialists.

In view of this long established recognition of the Socialist Party as a political party, we cannot now say that it is not a political party and, by excluding its representatives, disfranchise the people of five assembly districts. We disapprove, however, of the provision of the constitution of the Socialist Party which calls for candidates for political office to file with the party officials their resignations. The proof shows that this provision is a dead letter and that none of the five Assemblymen has been called upon to file or has filed such resignation.

We also disapprove of the provision permitting aliens to act on the executive or governing body of the party. It has been shown that but one alien has in recent years acted upon the Executive Committee, and that upon joining the party at the present time aliens agree to take out citizenship papers within three months or as soon thereafter as possible.

We must then determine whether any of the five members should be excluded for reasons personal to himself.

Under the provisions of section 10 of Article III of the Constitution, making each house the sole judge of the qualifications of its own members and by virtue of its inherent powers, the Assembly has the power to exclude any member for any cause it deems sufficient. A proper and reasonable exercise of that power, however, demands that the reasons must be substantial and founded upon real evidence rather than upon mere suspicion or surmise. Guilt cannot be established by proof of a state of mind. Evidence of overt acts is required. An individual may hold opinions, economic or political, which differ from those held by the majority of his fellow-men and still be qualified to sit in the Legislature. He may have ideas as to the degree of support of the government required of him in time of war absolutely contrary to those of other citizens, but the holding of such views or opinions does not violate the law of the land, and he is neither amenable to the law nor disqualified as a member of the body which makes those laws. The remedy lies with the electorate which chose him; theirs is the right to determine whether he shall be returned as their representative.

When the case of *Ralibone v. Wirth* was before the Appellate Division, two opinions were written and are reported in 6 Appellate Division Reports, page 277. In one opinion, Judge Herrick said that the object sought by the adoption in the Constitution of section 1 of Article XIII was to prevent "the exclusion of men from the enjoyment of equal rights and privileges with their fellow-men and from holding positions of power and trust because of their opinions." In the other opinions, Justice Landon said, in referring to the statute there under review, "If, by any fair construction of the clause or of the Act of which it is a part, it could be made to appear that its purpose or necessary effect is to prescribe anyone on account of his political opinions, the provision could not be upheld."

No overt act has been charged to two of the Assemblymen, except adherence to the principles of the Socialist Party. As to the other three members, the delivery of inflammatory speeches has been proven. These speeches were made in public at a time when the country was engaged in or had just emerged from a war which threatened its very existence; patriotic fervor was at high tide; the Espionage Act of the United States and the Criminal Anarchy Statute of the State of New York very properly were being vigorously enforced. None of the Assemblymen under investigation, however, was charged with the breach of either of these laws and it may be safely assumed that their speeches were not considered by the authorities charged with enforcing these laws as a violation thereof. As a matter of fact, the greater part of the proof concerning these speeches was given by witnesses whose purpose in attending the meetings where the speeches were made was to ascertain if there had been any violation of law. A careful analysis of the speeches concerning which evidence was given does not disclose any basis for exclusion.

We are not unmindful of the force of the argument that the governmental duty of self preservation demands the exclusion of disloyal members from the Legislature. That a government has the right to defend itself no one can question. But to exclude from membership in its legislative body any individual by reason of his views, whether political, economic or social, would be a confession of weakness and indicate a desire to substitute a policy of suppression of thought and of political action for one permitting a free presentation of grievances to be followed by intelligent discussion in an effort to solve the problems presented. Such a policy of suppression would be fatal to representative government and make a mockery of the statement in the Declaration of Independence that governments derive their powers "from the consent of the governed." Were this country still engaged in the prosecution of the war, the necessity of applying the doctrine of self preservation might be absolute. But, practically speaking, the war is over and the Legislature of the State has to deal only with problems involving the welfare of its own citizens.

Whether the five Assemblymen were loyal must be judged by the record alone. In our opinion, that record is insufficient to justify the exclusion of any of them by reason of disloyalty.

We, therefore, find that Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon are entitled to the seats in the Assembly of 1920 to which they were elected.

Respectfully submitted,

WILLIAM A. PELLET,  
THEODORE STITT.

## MEMORANDA BY MR. BLODGETT

In the Matter  
of the  
Investigation by the Committee on  
Judiciary of the Assembly, as to the  
Qualifications of LOUIS WALDMAN,  
AUGUST CLAESSENS, SAMUEL A. DE-  
WITT, SAMUEL ORR and CHARLES  
SOLOMON to seats in the Assembly.

By resolution of the House, five members thereof, the persons named in this proceeding, comprising the total Socialist representation therein, were suspended as members and denied participation in the business of the House, pending an investigation by the Committee on Judiciary, to be thereafter appointed, as to the "qualifications and eligibility" of the men named.

The resolution recites that (1) the five men are members of the Socialist Party of America. (2) That the Socialist Party did at convention at Chicago, during August, 1919, declare its adherence and solidarity with the revolutionary forces of Soviet Russia and did pledge itself and its members for the furtherance of the International Socialist Revolution. (3) That the Socialist Party thereby endorsed the principles of the Communist Internationale which is pledged to the forcible and violent overthrow of all organized governments now existing. (4) That the constitution of that Party requires a written pledge of its members to be guided in all their political actions by the constitution and platform of the party and that said constitution further provides that for failure or refusal, when elected to a public office, to abide and carry out such instructions as he may receive from the dues-paying party organization or as prescribed by the State or national Constitution, the person so failing or refusing may be suspended from the party for a period not exceeding one year. (5) That such instruction may be given by an executive committee composed wholly or in part of alien enemies owing allegiance to governments or organizations inimical to the interests of the United States and the people of the State of New York. (6) That in convention the Socialist Party at St. Louis in April did adopt resolutions that

the class struggle against economic exploitation and political oppression was the only struggle sufficient to justify the workers in taking up arms and also warned against the delusion of so-called defensive warfare. It further provided and the ideal of international working class solidarity was superior to the false doctrine of national patriotism and urged the members of the party from taking part in the war and to refuse to produce war munitions.

(7) That the Assemblymen under investigation subscribed to all the platforms and principles, aims and purposes of the party and have been actively associated and connected with the party.

(8) That all of the foregoing stamps the members of the party, the five Assemblymen in particular, with an inimical attitude to the best interests of the United States and the State of New York.

The Chairman of the Committee on Judiciary, for the purpose of framing the issues, suggested in the resolution, read a statement of such matter with which the Committee felt they should deal in carrying out the purpose of the resolution of the House.

Counsel for the Assemblymen challenged the right of the Committee to inquire into any facts not embraced in the resolution, but proceedings of this kind are only quasi-judicial in character and are possessed of large discretionary powers. They are not limited by strict rules of evidence nor in the subject matter in which the investigation may address itself. Its findings are not conclusive and may be accepted or rejected in whole or in part by the house.

The new matter embraced in the Chairman's statement declared (1) That the principles and doctrines of the Socialist Party advocated the destruction of our form of Government by force and violence; the substitution of minority for majority rule, to which these men subscribed. (2) That the nomination and election of these men were obtained for the purpose of overthrowing the government, peacefully if possible, forcibly if necessary, and that they were engaged in a well-organized conspiracy to subvert the due administration of law; to destroy the right of private ownership of property; to weaken the family tie as the seed of capitalism and to destroy the influence of the Church. Other matters are included, but they simply repeat in different form, matters already outlined in the resolution of the House.

We are here brought at the threshold of these proceedings to the necessity of determining which of these issues are relevant. While the scope of the investigation allowed great latitude in developing

many theories, these findings must be predicated on such rules of law as are found in the organic law of the country and State, or by statute, or on such powers as may be necessary and incidental thereto.

Our concern is, therefore, with the "qualifications or disqualifications" of the Socialists and we must determine if they have the "qualifications" as are required.

Article III, section 8, of the State Constitution deals with disqualifications:

"No person shall be eligible to the legislature, who at the time of his election is, or, within 100 days previous thereto, has been, a member of Congress, a civil or military officer under the United States or an officer under any city government. And if any person shall, after his election as a member of the legislature be elected to Congress, or appointed to any office, civil or military, under the government of the United States or under any city government, his acceptance thereof shall vacate his seat."

These disqualifications do not run to the seat of any of these men under investigation.

Article II, section 3, of the Public Officers' Law declared:

"No person shall be capable of holding a civil office, who shall not at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the State . . . etc."

I challenge the right of the Legislature to provide for qualifications for a constitutional office, but as these men have the qualifications here required, the matter may be passed as academic.

Article XIII, section 1, of the State Constitution prescribes the oath to be taken by members of the Legislatures and these constitute the extent of the qualifications or disqualifications required by the organic law or by statute.

Article III, section 10, declared "Each house shall determine the rules of its own proceedings, and shall be the judge of the elections, returns and qualifications of its own members: . . ." and in Article XIII, section 1, it is provided: "and no other oath, declaration or test shall be required as a qualification for any office of public trust." These two sections must be read together

and they present the question upon which this whole matter is based.

This proceeding is predicated on the theory that the legislature can require "loyalty" of its members as a matter of right and of law, and that "disloyalty" prior or subsequent to the election to office may disqualify.

The question presented is not simple, but is one much mooted, for a solution of which, precedent gives but little assistance. Other cases have proceeded on other facts, with other constitutional provisions, and so this case must be decided as a new proposition, carrying its own precedent.

We are not concerned with misconduct of members of the Legislature during the term of office but prior to election and prior to assuming office. Can "loyalty" prior to office be required as a "condition precedent" and does "disloyalty" prior thereto disqualify? This is really a double proposition and must be treated as such. They must also be decided with reference to the Constitution of the State or with reference to any powers conferred by the Constitution inherently and incidentally.

The Civil War cases on the question of "loyalty" are not helpful here. They proceeded on different Constitutional provisions than those in this case, or on statutes passed by Congress. From these cases developed the federal statute of a test oath of loyalty, which later developed in section 3 of the 14th Amendment of the Constitution. It was by virtue of this amendment that Berger was expelled from Congress, so that these cases are not in point.

It cannot be seriously denied that the Legislature may not protect itself against treason or such disloyalty as threatens the foundation of the State. This power is incidental and inherent in the Constitution as the power of the courts to punish for contempt in preserving their dignity and integrity. But the theory of the counsel for the Committee that the Legislature under section 10 of Article III of the State Constitution, viz., that the Legislature is the sole judge of the qualifications of its members, is supreme and a power unto itself in determining these qualifications, is quite untenable.

It is well understood among students of political philosophy that the Legislature, the government, is neither supreme nor sovereign. The government and all its branches is but the agent of the sovereign power, the people of the State, and as such agent

must and can only act within the scope of its authority. This authority is contained in the organic law and from such powers as are inherent and necessary for the proper functioning of the agency. On these premises, I feel that the power is inherent in the Constitution to permit the Legislature to require that "loyalty" of its members, necessary for the protection of the State, but always with due regard for all the safeguards with which the Constitution and the traditions and history of our country have surrounded representative government and free institutions. It necessarily follows then, that this right may only be exercised by the agent of the sovereign power, when the State itself is imperilled. To exercise it with caprice, prejudice or passion would be a blow at the very structure itself.

Much criticism has been directed against members of this House and its presiding officer for having instigated these proceedings and considerable doubt has been expressed as to the right of the House to suspend the members pending the investigation. While it is a matter of serious doubt that the House had the power under the Constitution to suspend these men, pending the investigation, having been done, it is only a matter of academic interest at this time. But it seems that if any member of the House has reason to believe that a member of its body is disloyal and that that "disloyalty" is in degree such as aims at the destruction of the Government, then it is not only his right, but his duty to bring the matter to the attention of the House. It is then that the power of the government to protect itself must be tested and the application of our free institutions in making such test proves their concrete existence. It need hardly be added that such power must be exercised with great caution.

These five men, having proper credentials, duly elected as Socialists, which party has an official place on our ballot and has for many years last past, recognized by our election laws, are denied their seats because of their membership in the Socialist Party and because they have pledged their allegiance to that party. It is charged that this party has the sinister motives as set forth in the resolution of this House. Accepting this as true, can it be urged that membership in a party as such disqualifies any or all of its members from public trust? It was first charged by counsel for the Committee that the Socialist Party was a treasonable and criminal conspiracy having for its purpose the destruction of the government by force of arms, and the premise was

urged that any of its members, and these five men in particular, were, *ipso facto*, traitors and conspirators, under the theory of law pertaining to criminal conspiracy. That each and every person in the organization was personally bound by every official act of the party and also chargeable with any act, word or deed of any other member of the party. In support of this theory most of the evidence in this case was offered.

Here we have a political party of great numbers; with well-defined aims and purposes, openly avowed, extending over the whole country, with similar movements in all civilized countries. If this contention were to obtain, we would have something more than conspiracy—we would necessarily have rebellion. The position is untenable, and there is no evidence of rebellion.

Nor can it be said that a party as such is responsible for the individual acts of its members. If this were true, all political parties would be thoroughly discredited and further reason for their continued existence would be lacking. Nor can membership in a party disqualify. If this were true, a dangerous principle would be established, to confound from time to time all political groups. Political parties, like all groups of people, like governments, under all conditions, in all places, at all times are never unanimous. There are always minorities on important questions. Our governmental instinct and genius is the submission to the will of the majority, reserving always the right to dissent; to urge a change of the majority's will by such means as are usual and thus endeavoring to make the minority in fact the majority. Can it be said that there rests a positive obligation to retire from any organization when it embarks on a course of action, as develops here, considered by popular standards as unpatriotic? We applaud those men who did—Spargo and Benson, but may not others remain with impunity within the ranks to work their reforms within; to keep the organization true to its dogmas, to prevent further departures?

Disqualification because of party membership is too dangerous. It is not American in method. It is not sound. We have passed through many periods of history, which have taught us the pricelessness of Freedom and the value of institutions that stand firm, through all periods and with reference to all men.

Thus with the elimination of this theory, we strike out great masses of the evidence as irrelevant and are now only concerned with such charges as are made against the men as individuals.

In applying a "loyalty" test to these men, it must be kept in mind that the word admits of so many definitions that the test must be most carefully applied, having regard for all historical precedents and the constitutional liberties of men. The loyalty of the soldier, schooled in the strict standard of military discipline is a different standard by far from that of the statesman, clothed in constitutional immunity, criticising the government to effect a change in policy or laws. The word implies different meanings according to the time, the person under investigation and the state of mind of his accusers. It must be admitted that any citizen has the right to criticize his government at any time, if by so doing he violates no law.

If this were not true, a government might perpetuate itself and the people would be estopped from asserting their constitutional rights. This right to freely discuss public questions we would not take away, even if it lay within our powers. No reasonable man would attempt it, because it is the very keystone of freedom and embraces all rights and liberties guaranteed to us.

These men as Socialists have very different viewpoints from those of us who are non-Socialists. Their party is more than a political party—it is an economic and social creed and the faithful thereof hold it in almost religious reverence. The party differs from other political parties because it is and always has been international in its general scope. It is claimed to be national with reference to such problems as are peculiar to individual countries. The party principles with reference to the party here are in decided opposition to our two older parties, and these principles have been published and disseminated to a point of saturation. The party has always consistently been in opposition to war and most of its members hold these views.

These men were in opposition to the war; they believed in non-resistance; they did not feel the urge to defend the honor and integrity of the United States which was the privilege and duty of its citizens. Rather they felt and said that the war was a war for world-markets, fostered by their enemies, and that they would not willingly give a life or a dollar to prosecute it. Judged by our convictions, we find nothing laudable in this, but we must admit that the opposition of these men was such as not to come into conflict with the law. Nor can it be truthfully said that only Socialists were derelict in their obligation to their country. Public records show many others. So we are then asked if this, in itself, con-

stituted such "disloyalty" as disbars them from the right to sit in our Legislature. Historical precedent has shown that Webster, Clay, Lincoln and others we revere, likewise criticized wars while they were in progress and I recall the case of Lloyd-George and Asquith in their opposition to the war of England against the Boers, and their right so to do has never been denied.

Claessens and Waldman are charged with having signed an anti-enlistment pledge in 1915. This was a pledge against voluntary enlistment for any military or naval service in international war, offensive or defensive, and against giving approval to such enlistment on the part of others. Foolish, yes; unwarranted, certainly; but criminal at the time or even disloyal, the answer must be "NO." This pledge was not a Socialist movement but was generally distributed by others and was quite in keeping with the popular mind at the time.

It was at a time when the Federal administration was preaching "neutrality even in thought." "Peace without victory," "too proud to fight," etc. Would it be seriously suggested that a Democrat who signed the silly pledge — and doubtless many did — be disqualified for disloyalty? Justice must be impartial and within the reach of all.

Waldman and Claessens, while members of the House last year, introduced bills, voted on others, spoke on the floor of the House against certain bills and resolutions which reflected certain unpatriotic standards. Article III, section 12, declares, "For any speech or debate in either House of the Legislature, the members shall not be questioned in any place." Likewise there is no prohibition as to what bills may or may not be introduced and no limitation on the members affecting his vote. Otherwise, there would be a denial of free government, and the whole system would be in jeopardy. And the fact is developed that no matter what radical changes were sought to be brought about, it militates against the charge that they sought to overthrow the government by force of arms; that they scorned the more cumbersome method of law reform.

The other main charges against Waldman, Solomon and Claessens are based on speeches, debates and their election campaigns during the preceding fall. The words "revolution," "struggle of the masses," "dictatorship of the proletariat," are offered in support of their criminal intention of violence. These words are not novel, invented for the purpose of embarrassing the government at a crucial time, but are found in socialist literature from

the very beginning of its movement. These men may have had criminal intent in using the phrases, but I am not satisfied from the evidence that this is true. They are rather those strong words often used in support of weak theories. This is almost axiomatic and recalls to mind that the most belligerent of people are usually found farthest from the theater of war. These speeches were made about one year after the signing of the armistice and when the country was and is only now technically at war. As much as I disagree with the tenor of these sentiments, I would rather that they be publicly given and openly discussed than drive them into secret dark places. If their teachings are false, the light of reason will destroy them and the judgment of men will reject them. If they are true, no harm can result from a public discussion. History has taught one lesson, if no other. That an idea, good or bad, cannot be throttled. If everyone were exterminated who held a certain idea, the act of extermination would perpetuate it for all time.

Claessens, Waldman and Solomon are charged with a sympathy for Soviet Russia and with criminal intent to substitute by violence this form of government for our own. On this point, much time and effort has been spent, and in my opinion, to no avail. No one can vouch either for general conditions in Russia or for its government, on either side. The change is too great, affecting too many people, over too broad a territory, for any person to know what the situation is or may be. "In the realm of conjecture, only those are equal who have equal opportunity for observation" and it is historically true that great periods in history cannot be judged contemporaneously. The answer is only found in the judgment of time.

Under oath, these three men, have denied that they ever advocated the Soviet system for the United States — that they do not advocate it now, not even by peaceable means. As pointed out in the brief of the counsel for the Committee in the Stark case:

" \* \* \* If he (Stark) had declared them (his sentiments) to the committee, asserting his loyalty to the government, the committee would have given him the full benefit of them; and perhaps they might have gone far to have removed the unfavorable conclusions to which the committee have come. But in the absence of any such declarations, the committee could only pass on the evidence that was before them, giving him the full benefit of every presumption that

can arise in his favor, and of every deduction that should be made from a conflict of testimony."

One of the purposes for which the United States entered the World War, as declared by the President in his 14 points, was to establish the right of nationalities to determine their own form of government and to fashion their own destinies. The form chosen by Russia may work the ruin of that country; it may be abhorrent in the eyes of the world; but it is theirs, and this we must recognize. These men declare they only favor this government for Russia, and I cannot find that this is such disloyalty as disqualifies. Free institutions would be only ephemeral, if thus easily disturbed. Intemperate speech, untenable theories, false doctrines, foolhardy acts are all incidental to progress, and the great people of our country and this state are too strong in their political instinct to feel concern here. To stamp out such views would not be strength, but weakness; to tolerate would not be weakness, but strength, and the sovereign people, jealous of their freedom, just in their might, inspire me with an abiding faith.

As to the other two men, DeWitt and Orr, no evidence, excepting that they subscribed to the platforms and doctrines of the party and have not repudiated them, has been offered.

One more question remains. Whether the pledge which a Socialist sign on becoming a member of the party is inconsistent with the oath of office. National Socialist Constitution, Article II, section 5:

"In all my political actions, while a member of the Socialist Party, I agree to be guided by the constitution and the platform of that party."

In the state constitution, Article VIII, section 8:

"Recognizing the Socialist Party as a pure democratic organization, in which the source and seat of all powers lie in the dues paying membership, as elected (or appointed) official of the party, it shall be my duty to ascertain and abide by the wish of the majority of the dues paying members of my local or political subdivision."

The state constitution requires this oath in Article XIII, section 1:

"\* \* \* And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or prom-

ised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote \* \* \*

There is no direct conflict in these two pledges, and none has been seriously urged. The Socialist state constitution further provided:

"Section 13—(a) A member may be expelled from the party, or may be suspended for a period not exceeding one year, for the following offenses: (b) for failing or refusing, when elected to a public office, or while acting as a delegate to an official party convention, to abide and carry out such instructions as he may have received from the dues-paying party organization, or as prescribed by the state or national constitution."

This expulsion or suspension is from the party, and does not amount to a conflict with the state oath. With reference to this, Article XI, section 3, of the State Constitution can be considered—"and it shall be the duty of the Legislature at each session to make sufficient appropriation for the maintenance thereof" (State militia of not less than 10,000 men). There is no positive requirement for any member to vote for such an appropriation; but if it may be interpreted that such obligation exists, the evidence in this case is that Claessens and Waldman were not permitted in the last session or in any other to vote on a military appropriation as such. Rather, this appropriation was included in the general budget, which must of necessity be accepted or rejected in toto. Then until there is some evidence that these men could have voted for or against a military appropriation, as provided by the Constitution, we cannot say that this is inconsistent with their pledges to their party.

The theory of disqualification because of party membership, upon which this case is presented, does not square with my views. I have endeavored to discuss as much of the evidence against these men as individuals, as to me seems relevant and pertinent to this inquiry. I do not find evidence of such disloyalty against these men as would warrant the exercise of that right of the Legislature to protect itself, in the absence of a present and imminent

danger to the State. I am greatly concerned with that portion of the State Constitution, Article I, section 8, which provided: "Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of press." Hence in the face of a positive affirmation of a principle as against a right existing only in time of great urgency, admittedly limited in its scope and application, I incline toward the former.

If I err in these conclusions, I err on the side of constitutional liberties, trusting in the strength of the sovereign people to maintain itself.

With these views as to the law, with this interpretation of the evidence, I respectively report that no disqualification has been proved against these men, sufficient to exclude them from their seats.

H. A. BLODGETT.

## MEMORANDA BY MR. EVANS

In the Matter  
of the  
Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT,  
SAMUEL ORR and CHARLES SOLOMON  
to seats in the Assembly.

This proceeding arises from a resolution, adopted by the Assembly on January 7, 1920, directing the Judiciary Committee to investigate the qualifications of the five Socialist members of the Assembly and their eligibility to retain their seats in that body.

After the aforesaid members had duly taken their oaths of office, participated in the organization of the House and recorded their votes on the several roll calls, incident to the organization of the Assembly for the legislative session of 1920, the Speaker directed the Sergeant-at-Arms to bring them before the bar of the Assembly and the Sergeant-at-Arms duly performed the duty thus assigned to him.

The Speaker then made a statement, which, in substance, charged that these five members were disloyal to the State of New York and to the United States; that they believed in and advocated the use of force to overthrow the government of the State and of the United States; that they stood committed to the platform and declarations of the Socialist Party of America, which were inimical to the best interests of the State and of the United States. Having made that charge, the Speaker permitted the five members to seat themselves in the House.

A resolution was thereupon adopted, substantially embodying the charges as set forth by the Speaker, suspending the said members, and thereby estopping them from further participation in the business of the House, until the conclusion of the proposed investigation and the submission of a report by the Judiciary Committee upon their qualifications to continue their membership in the Assembly.

[2771]

At the very outset of these proceedings, the power of the Assembly to expel the elected members, upon the grounds formulated in the charges was challenged. While the charges, as originally set forth in the resolution were amplified during the investigation they may, nevertheless, be properly embraced under the two general charges embodied in the resolution itself — disloyalty to the nation in time of war and advocacy of the use of force to establish a socialist state.

The question of power — legal power — is a very serious one. It involves the whole structure and underlying principles of constitutional government. That question must be determined before the facts adduced become of importance.

We do not question the fact, that the Assembly has the naked physical power to expel or suspend any member for any reason whatever and that its action is final, in the sense that no appeal lies to any other tribunal. What we urge is that the Assembly must never exercise a power purely physical unless it is likewise a legal power. Naked physical power, without legal basis, is force. The Assembly must not expel these Socialists by force. The inquiry is not whether the Assembly has the mere naked power to expel; the question is solely, does the legal constitutional power exist in this case.

This proceeding is authorized by the Constitution of the State, and we are limited by the Constitution as to our power in the premises. We are legally enabled to inquire into the qualifications of elected members of the Assembly — Democrats, Republicans, as well as Socialists, and others.

There are certain definite restrictions however placed upon us in a proceeding for the determination of the qualifications of a member of Assembly. These constitutional restrictions we must implicitly respect.

Since we stand for the maintenance of constitutional government and demand that the Socialists respect constitutional authority, we must first ourselves respect that self-same authority, no matter what our personal feelings may be towards persons who preach un-American and disloyal doctrines; we must not permit our feelings of patriotism and our love of country to decide this important question before us.

We must decide this case on the Constitution and the laws enacted under it, and nothing more nor less.

The advocacy of the use of force to overturn government is amenable to the criminal law. The holding of such opinions

constitute only a state of mind. The expression of them to others, with intent that such others act upon it and use force to overthrow the government, is a crime.

But the Assembly has no power to try for crime. That power is vested in the courts. If a person be convicted of crime and thereby loses his citizenship, and is thereafter elected to the Assembly, the Assembly may exclude him on a trial for his qualifications, because he does not possess the necessary constitutional qualifications of citizenship to be competent to serve as a member of the Legislature. Any person is competent to serve in the Legislature, if he is a citizen, a resident of the State, over 21 years of age, does not hold any civil or military office under the United States, is not, or within 100 days prior to election has not been, a member of Congress, or held any office under a city of the State; is duly elected by the people, and takes the oath of office.

That is our law and we must stand by it to the letter. It may be that this proceeding will cause the people of the State to prescribe new qualifications for members of the Legislature by constitutional amendment and thus give the Assembly the right to demand loyalty to the State and nation as a qualification of its duly elected members; loyalty, at least in the sense that an elected legislator shall not be an advocate of violence to change a government which permits change by constitutional and peaceful methods.

If we disqualify Socialists from sitting in our legislative branch of the government merely because we abhor their ideas and ideals, our democratic government will not long endure. Ours is a government of law, not of men. Ours is a government where all shades of opinion and notions must be allowed to live. The minority has a place in our government. The majority cannot disenfranchise the minority, no matter how much in conflict the minority view is, with the prevailing notions of what is or is not loyal, good, proper and desirable.

The minority has the right to preach doctrines and theories of all kinds. We cannot bar them. If the minority doctrines are disloyal, unpatriotic, insane or foolish, we must rely on the electorate to reject them. We reject the doctrines of the Socialist Party; but so long as the Constitution and laws allow them life, it is our duty to maintain their right to preach their ideals. We cannot, therefore, disqualify any of the five Socialist Assemblymen duly elected by the people, upon the charges made unless the

Constitution gives us that power. And such legal power does not exist.

Section 10, Article III, of the State Constitution is the source of power on the part of the Assembly to remove a duly elected member of the House. It reads:

"A majority of each house shall constitute a quorum to do business. Each House shall determine the rules of its own proceedings, and be the *judge* of the *elections, returns* and *qualifications* of its own members."

The *elections* and *returns* of the five Socialist Assemblymen are not disputed. The question then turns on their qualifications.

The serious problem here is what is meant by "qualifications." Does it mean "qualifications" which the House itself can set up? If so, the matter is entirely uncertain. If the House can determine what are or are not "qualifications," there is nothing to prevent the majority from setting up such "qualifications" as the exigency of the moment may to it seem proper. Can it say, without specific authority from statute or constitution, that sickness is a disqualification, or disease, or the commission of a crime, although unconvicted, or irreligion, or irreverence of the government, or disloyalty, or immorality, or insanity, or lack of education, or bad manners, or personal repugnance, or belief in doctrines despised by the majority, or any other matter deemed a disqualification by the particular House?

If that be so, then what is to prevent a majority from saying that the political platform of the minority is, in its view, "inimical" to the best interests of the government, and proceed to disqualify the minority? If that were so, representative government would be a very unstable institution. It would make our government a dictatorship of the majority party in power. The existence of minorities in our Legislature would then be merely by the grace and good opinion of the majority. We do not believe that the "qualifications" of an elected member of the Legislature are to be left to the arbitrary and sometimes capricious opinions of the majority. In fact, the question as to what constitutes a "qualification" of a member of the Legislature is specifically prescribed in our state constitution.

Section 8, Article 3 of the State Constitution reads:

"Persons disqualified from being members —

"Section 8. No person shall be eligible to the Legislature who, at the time of his election, is, or within 100 days previous thereto has been, a member of Congress, or an officer under any city government."

Citizenship, age and residence are not constitutional qualifications. They are qualifications prescribed by statute. (Public Officers' Law, Article 11, Section 3.) Prior to the enactment of the constitutional amendment granting equal suffrage to women in this State, we doubt if a woman, of full age, a citizen and a resident would have been disqualified to sit as a member of the Legislature, because she was not an elector.

The provision of the Public Officers' Law, however, is not involved here, because the age, residence and citizenship of the five Socialist Assemblymen is not questioned.

Article 13, Section 1, prescribes the "qualification" of an oath of office to be taken by a duly elected member of the Assembly, to support the Constitution of the State and of the United States, and that he did not illegally influence any vote in his election.

Outside of the foregoing "qualifications" none are required. In fact the constitution specifically prohibits the Legislature from imposing any other "qualification." The Constitution says:

"And no other oath, declaration or test shall be required as a qualification for any office of public trust."

It is contended by some that the word "test" in this constitutional provision means a religious test. In short, it is contended that the word "religious" should be inserted in the Constitution. We do not think that the word "religious" can be inserted in the constitution without doing violence to the plain meaning of the language. If the framers of the Constitution had intended to prohibit only a religious test, the word "religious" could easily have been inserted in the document. In fact, when the framers of the State Constitution enacted it, they certainly had in mind the Federal Constitution which specifically contains the phrase, "religious test." By leaving the word "religious" out of this constitutional enactment, it must be deemed that the framers of the constitution intended to prohibit, not only a religious test, but any test.

The origin of the word "test" goes back to the various test acts of the early British Parliamentary history. There were, in Britain, provisions of law which required that all persons holding

any office, civil or military, should take the "oath of supremacy"; should subscribe to a "declaration against transubstantiation"; that they should publicly receive the "sacrament according to the rite of the Church of England." The "Corporation Act" of 1662 required all Magistrates to disclaim the "obligation of the Covenant," to declare their belief that it was unlawful upon any pretense to "resist the King." The "act of uniformity as to religion" required every clergyman to declare assent to everything in the book "of common prayers," and to take an oath "abjuring the solemn league and covenant," and "renouncing the principle of taking arms against the King."

Undoubtedly the various test acts were in the minds of the framers of our original constitution, from which this provision is taken. They meant that no such oaths, nor any other of a like nature should be prescribed as a qualification for the holding of any public office.

There might be some force in the contention that the word "test" refers to a religious test, if the various test acts of early British Parliamentary history confined themselves to religious tests. But that is not so, because, among the test acts, was one which required a person holding public office in England to swear loyalty to his King, to take an oath not to resist the King, and to renounce the principle of taking up arms against the King. These were among the test acts, as well as the various religious tests. So that, therefore, it cannot be argued with any degree of authority that the word "test" in our State Constitution refers to merely a religious test. Clearly it refers both to religious and to political tests.

It was said by Judge Peckham, in the case of *People ex rel. Rogers against Common Council of Buffalo* (123 New York, 173), speaking of the origin of this language in our State Constitution: "It cannot be doubted that the facts mentioned in them were present to the minds of the framers of our original constitution from which this provision is extracted. They meant that no such oaths, declarations or tests as above described; nor any other of a like nature, should be ordained as a condition for the holding of any public office."

Article 13, Section 1, of the State Constitution must be interpreted by us exclusively. We are not bound by any interpretation of any court upon that question. There are some interpretations of the courts to help us in the determination of this question.

But the highest court of this State has already said that so far as this constitutional provision is concerned, it must be interpreted solely by the Houses of the Legislature; that only the interpretation of the Houses of the Legislature is binding upon the Assembly, and that the interpretations of the Courts are not binding upon the Houses of the Legislature, nor the interpretation of the Houses of the Legislature binding upon the Courts. (*Barker v. People*, 3 Cowen, 686.)

In the Barker case the Court said:

"Thus, the same question must, for different objects, receive decisions from different jurisdictions; and under one constitution and one system of laws, the same decision may be expected from all the public authorities. But if the Senate or the Assembly on one side, and the courts of justice on the other, should make opposite decisions respecting such a disqualification, both decisions would prevail in different respects."

The same doctrine was laid down in *Sherwood v. The State* (129 N. Y. 360) and in the case of *French v. The Senate of the State of California* (146 Cal. 604; 69 L. R. A. 556).

But, although, we are not bound by the decisions of the courts upon that point, yet we see no reason for rejecting them, unless they are to our minds unsound. The law, as laid down in the cases cited here is wholly sound. If we are to be bound by reason, then the law as laid down in the cases here cited, must be just as controlling upon us, as if we were an inferior court. So that, when it is said that the Assembly is not bound by the decisions of the courts, it does not mean that we are not compelled to accept a sound rule of reason and logic, as laid down by any court, or any tribunal, or any body, or person. If the decisions of our courts be sound, then they are binding upon us, in all honesty and reason.

And we must remember that, in this proceeding, we are acting in a judicial capacity, and exercising a judicial power, and not a legislative power. (*People ex rel. Hatzel v. Hall*, 80 N. Y. 117; 1 Kent's Commentaries, 235.)

The courts have had some cases before them in which they decided what qualifications could be imposed by statute upon persons seeking office.

The case of *Rogers v. Common Council of Buffalo* (123 N. Y. 173) and *Matter of Wortman* (22 Abbott's New Cases, 137) stand for the proposition that the Legislature may impose, upon those seeking the civil service positions, a qualification of education and capacity to hold the office which they seek, under the civil service law; and that it is competent for the people of the state to prescribe by statute that civil service commissioners shall be members of certain political parties in certain proportions. These qualifications, it must be remembered, are not the kind of qualifications that we seek to impose. These qualifications, before the courts, in these cases, were qualifications enacted by the people under a statute passed by the Assembly and by the State Senate, and signed by the Governor, thus being the act of the people of the State.

We are not now concerned with the question as to whether the State Legislature would have the right to pass a statute prescribing that candidates for the Assembly must be loyal or have certain educational, mental, moral and physical qualifications. At least, such a qualification adopted by the people, in the form of a statute, is an altogether different thing from a qualification imposed by the Assembly itself, without authority from the Constitution or from the people. Whether or not the Legislature could by statute impose a qualification of loyalty, morality, education or other qualifications or test by statute, and whether such statutory enactment would be constitutional, is not for us to decide at this point. The point that we desire to emphasize here is, that the qualification sought to be imposed by the Assembly, in this proceeding, is a qualification wholly without constitutional or statutory authority. It is a qualification not imposed by the people in way, shape or form, but a qualification only imposed by the Assembly. Being a qualification of that nature, it is a test of men by men, not a test of men by law.

The language of Article XIII, section 1, has given rise to disputed interpretations by our Committee. Let us repeat the pertinent part for clarity:

"And no other oath, declaration or test shall be required as a *qualification* for any office of public trust."

Under this constitutional provision we cannot by statute or otherwise require an elected member of Assembly to take any other oath, or make any other declaration, as a *qualification* for

membership in our body except the oath required by Article XIII, section 1. (*Green v. Shumway*, 39 N. Y. 418; *Cummings v. Missouri*, 4 Wallace, 277; *Rathbone v. Wirth*, 150 N. Y. 459.)

In this constitutional provision, a distinction seems to be made between an oath, as a qualification; a declaration, as a qualification; and a test, as a qualification.

What is the difference between an oath, declaration and test? We think the difference may best be illustrated concretely.

Assume that, prior to the suspension of the five Socialist members, the Legislature of this State had enacted a statute requiring, in addition to the Constitutional oath, the following oath, to be taken by duly elected members:

"I solemnly swear that in the war between the United States and Germany, I did not give aid and comfort to the enemy; that I did not call upon the workers of America to refuse support to the United States in the war; that I did not declare that patriotism was a false doctrine; that I did not advocate sabotage; that I did not declare my solidarity with the Soviet of Russia, nor the Spartacides of Germany; that I did not advocate a general strike to paralyze the armies and navies of the United States; that I did not advocate the use of force to overthrow the government of the United States; that I do not accept as superior to my obedience to the Constitution of the State and the United States the authority of the Socialist doctrines, or the moral authority of the Internationale; that I have been loyal to the United States in war; that I did not advocate the repudiation of war debts; and that I did not join in any conspiracy to change the government by force of arms."

Would such a solemn statutory enactment by act of the entire Legislature be constitutional under Article XIII, section 1 of our State Constitution? Under the decisions of our courts in *Green v. Shumway* and *Rathbone v. Wirth* (supra), clearly not. It follows that, if such an oath, required by statute, as a qualification for member of Assembly be illegal, that such an oath, if required only by the Assembly is also illegal.

So much for an "oath," containing that subject matter.

Now then, instead of an oath, if a statute were enacted, requiring only a declaration, unsworn to, of the same subject matter, would it be constitutional? Clearly not. For the requirement of

such a declaration is also prohibited by the same constitution. If then by statute, such a declaration cannot be required, as a qualification for public office, can the Assembly, by its own authority, require it as a qualification? The question carries its own answer.

So much for a "declaration."

Now then, if the subject matter, embodied in that supposititious oath, or declaration may not be required, as a qualification for public office, in the form of a solemn oath, or, in the form of a declaration, even by statutory authority, may the same subject matter be required, as a qualification for public office, in a different form? For instance, in the form of a test, trial or investigation, for that subject matter, embodied in the supposititious oath, without the formality of an oath or declaration, and without being even limited by the bounds of a statutory oath or declaration?

We can see no difference between a "test" for the subject matter embodied in the supposititious oath, and the investigation which we have just finished. The investigation was in fact a test of the five Socialist Assemblymen, to find out if they were disloyal and if they advocated force and violence to overthrow the government of the State and the United States.

In this investigation, we imposed nothing but a test upon them, a test of their beliefs and doctrines against our beliefs and doctrines. In that test we have found them wanting. But it was a test, nevertheless; and a test, which we believe is prohibited by our Constitution to the same extent as an oath or declaration.

We have been unable to perceive the distinction, if any exists, between this proceeding and a "test," expressly prohibited by Article XIII, Section 1 of the State Constitution.

The word "test" perhaps includes generically, an oath, and a declaration. The test may be by direct method of an oath, a declaration or by the method of investigation, such as was adopted in this proceeding.

When the test is in the form of an oath, the solemn administration and taking of the oath is supposed to establish *prima facie* the facts, to which the person swears, as they are embodied in the oath. In the form of a declaration the same thing is accomplished, in a less formal way. If it takes the form of an investigation or trial it results in a more or less disputed question of fact.

It is not the oath, the mere taking of it, that constitutes the test. It is the substance of it, the truth of it, that constitutes the test. As counsel for the Attorney-General say in their brief: "It is the quality of loyalty that constitutes the test." That is

the real test. (*Attorney-General v. Bradlaugh*, 142 B. D. 667; *In re Badek*, 63 Fed. 813; *O'Reilly v. People*, 86 N. Y. 154; *Beekman v. City*, 200 N. Y. 53.)

Is it logical and reasonable to hold that the same subject matter, as it is embodied in the supposititious oath, may not be required as a qualification for Member of Assembly, when ascertained in the form of an oath or declaration, and yet it may be required, as a qualification, if ascertained by the form of an investigation, which is merely a different kind of test.

To believe that is to believe that the Constitution prohibits *any* test as a qualification for public office, only according to the manner or form in which the test is imposed. Such an interpretation destroys the very constitution. We cannot come to any different conclusion than that this investigation is in substance nothing more than a test. The form of the test, cannot authorize a violation of the plain constitutional prohibition. We cannot accomplish, by indirection, what we are forbidden to do directly.

The Legislature under this constitutional provision, has no legal right to demand loyalty of its members—loyalty in the sense that the majority understands it—nor has it any legal right to impose any such test of loyalty, either in the form of an oath, a declaration or in the form of an investigation or trial. It may seem, to many, a startling proposition, that persons thus disloyal in many ways to the State and to the United States in time of war, may serve in the Legislature; that persons who give aid and comfort to our enemies in time of war, and, who, advocate force to destroy our government, may make laws, so long as they stand convicted of that crime. But that is the fact under our Constitution. And that Constitution we must obey.

In the case of Lucas E. Decker, elected to the Assembly from the Fourth District of Queens county at the November, 1917, election, his right to sit in the 1918 Legislature was questioned because of his disloyalty to the nation in time of war. Decker, although of draft age, failed to register in the draft. Finally he registered and made false claims for exemption from service. The Judiciary Committee that heard the charges against him found him guilty of the charges made. But the Committee, nevertheless, recommended dismissal of the charges upon the ground that that constituted no constitutional disqualification. The pertinent part of the report of the Committee reads:

"Your Subcommittee rules that in order to remove a member of Assembly from office under the Constitution some question

involving the election or returns is necessary before the Assembly has jurisdiction in the premises; and further, that the person so elected must be entirely disqualified under the Constitution or by his conduct in the House must disqualify himself. These regulations are specifically set forth in the Constitution itself, and there is no evidence before us that any of them are lacking as far as the respondent in this proceeding is concerned." (*Assembly Journal*, 1918, Vol. 1, p. 105.)

We have not heard the Decker case distinguished from the case at Bar.

Many precedents have been cited by counsel for both sides to this proceeding from the Federal Congress. None of them are to our minds applicable at Bar.

The Federal Congress has much greater power in removing its elected members than has the Legislature of this State. We believe that the Federal Congress is not prohibited by the Federal Constitution from imposing the test of loyalty to the nation upon its elected members.

The Federal Constitution prescribes the qualifications of age, residence and citizenship for members of Congress (Article 1, section 2, subdivision 2; section 3, subdivision 3). It also prescribes a negative qualification, that no person shall be a member of Congress who holds any office under the United States (Article 1, section 6, subdivision 2). Members of Congress must further take an oath of office to support the Constitution of the United States (Article 6, section 3).

Then the Federal Constitution provides that each House shall be the sole judge of the elections, returns and qualifications of its members (Article 1, section 5).

The Federal Constitution then prohibits any religious qualification in this language (Article 6, section 3):

"But no religious test shall ever be required as a qualification to any office of public trust under the United States."

Contrast this language with the language of the New York State Constitution:

"and no other oath, declaration or test shall be required as a qualification for any office of public trust."

It is quite apparent, therefore, that the Federal Legislature has far greater power in such proceedings than we have. There is certainly no specific prohibition in the Federal Constitution, except

against a religious test. The Federal Legislature has the right to reject elected members for disloyalty as defined by the Federal Constitution (Article 14, section 3). We have not. For these reasons the precedents in the Federal Congress are hardly applicable at Bar.

The Federal Congress has powers which the State Legislature has not. By Article 14, section 3, a person may be disqualified to be a member of Congress if, after taking any oath of office to support the Constitution of the United States, he has thereafter engaged in rebellion against the United States or has given aid and comfort to the enemy.

We are not passing upon the question as to whether these five Socialist Assemblymen would possess the necessary qualifications, were they elected members of Congress under the Federal Constitution. We must confine ourselves to the question as to whether they possess the necessary qualifications to be members of Assembly under the State Constitution.

For these reasons the cases of Brigham H. Roberts, Congressman-elect of the 56th Congress from Utah (*Vol. 1, House Reports*); Powell's case (*Hind's Precedents, Vol. II, p. 827*);

Benjamin Stark, United States Senator, 1862, Oregon (*Vol. 32, Part 1, Congressional Globe, p. 269*);

James Lanman, United States Senator, 1825; Connecticut (*Vol. 32, Part 1, Congressional Globe, p. 184*);

David T. Paterson, United States Senator, 1866; (*Vol. 36, Part 5, Congressional Globe, p. 4162*);

John M. Rice (1 *Hind's Prec.* 472); Michael Ryan (1 *Hind's Prec.* 224); Louis St. Martin (1 *Hind's Prec.* 221); R. R. Butler, Congressman-elect, 1867, Tennessee (*Hind's Prec. Vol. I, p. 440*); and, in the same year, the cases of Congressmen-elect Trimble, Brown, Knott, Grover, Jones, Beck and Young from Kentucky (*Hind's Prec. Vol. 1. p. 442*); and the case of Senator Smoot of Utah (*Vol. 1, Hind's Prec., p. 587*), cannot be regarded as precedents at Bar.

It is seen from the Federal precedents, that Congress has exercised the right to eject members from its body, who were disloyal to the government of the United States, but Congress has a specific right to impose a test of loyalty upon its members, as defined in Article 14, of the Federal Constitution.

Article 14, of the Federal Constitution specifically empowers Congress to do that, and there is no specific prohibition in the

Federal Constitution against a test of that kind. So that even the cases decided before the adoption of Article XIV of the Federal Constitution cannot be regarded as authorities in this proceeding.

There is a strong difference, therefore, upon that point between the Federal and State Constitutions. While it is nonetheless desirable to have loyal members in the State Legislature, especially in time of war, certainly as much to be desired as to have a loyal Congress, there may be a reason for the different constitutional provisions upon that point.

Congress has the power to declare war and make peace. It is, therefore, strictly vital that Congress be composed of loyal men who would not hinder the government in time of war, and Congress, therefore, has been given by the people the necessary powers to exclude from its body disloyal men, who give aid and comfort to our enemy, in time of war.

The State has no power to wage war, and to make peace, and it may be for that reason that the State Constitution contains no similar provision against disloyal men, who give aid and comfort to an enemy, in time of war.

In the Federal Congress, the loyalty of its members is of paramount importance to the nation, and it is therefore necessary that Congress have that power to keep itself loyal and American, at least in time of war.

And even Congress recognizes that it cannot impose any test, or any qualification, except as authorized by the Federal Constitution (*Case of William McCreery*, 1 Hind's Prec. 381; *Case of Turney v. Marshall*, 1 Hind's Prec. 385; *Case of Wood v. Peters*, 1 Hind's Prec. 387).

The contention has been made in these proceedings, that, notwithstanding the constitutional prohibition against imposing any test upon members of the Assembly such a test of loyalty is necessary as a matter of self-defense. It is contended that this is an inherent right, made necessary in self-defense, to preserve our government from destruction.

We think that the state government has ample powers for self-defense, and means to preserve its life and integrity without violating its own constitution.

If we think it is necessary for self-defense to exclude these Socialists from the Assembly, let us submit to the people of the State a constitutional amendment excluding Socialists from the Assembly. That would be an open and sufficient measure of self-

defense. Let us not defend ourselves by indirection, when we can do it by direction, and with the consent of the people, if such defense be necessary. If it is necessary, as a matter of self-defense, to give the Houses of the Legislature the power to exclude elected members for disloyalty, or for the holding of views inimical to the State government, let us submit that to the people in the form of a constitutional amendment, and let us see whether the people think that such measures of self-defense are necessary.

The qualification of a member of Assembly must be prescribed by the people either by way of constitutional amendment, or by way of statutory enactment. It is the right of the people to prescribe the qualifications of its public officers. It is not the right of one House of the Legislature to do that.

The cases of William Blount, Senator from Tennessee; John Smith, Senator from Ohio, and Senators Jesse D. Bright, and Philip F. Thomas, were cases of misconduct in office and, of course, have not the slightest application at Bar.

There is no question but that the Assembly has the power to discipline its members for misconduct in office. That is a wholly different thing from prescribing qualifications for its members. It would be an entirely different question, if the Assembly sought to remove from office elected members for conduct while in office, which would be immoral, or criminal, or would tend to injure our government by unlawful means.

The Assembly has the right to maintain the peace and dignity of its body, and, upon that theory, it could remove an elected member for conduct which in its judgment offends the peace and dignity of the House.

The power to expel for misconduct in office is an inherent right of any assembly. (*People ex rel. McDonald v. Keller*, 99 N. Y. 463; *Hiss v. Bartlett*, 3 Gray (Mass.) 468; Cooley's Constitutional Limitations, p. 190; Stimson's Federal and State Constitutions of the United States, p. 276; Cushing's Law and Practice of Legislative Assemblies, pp. 250, 269; Van Holst's Constitutional History (Mason), p. 102.)

In this State the legislature need not resort to the theory of "inherent" rights of legislative assemblies for the power of expulsion for misconduct in office. (Legislative Law, sections 3 and 4; Public Officers' Law, section 352.)

The only doubt as to what power lies in the contention that the Assembly of 1920 has power to expel the five elected members for

misconduct in the Assembly of 1917, 1918 and 1919. It is charged that four of them refused to vote for appropriations to support the state militia contained in the general appropriation bill, when members of a prior Legislature and it is urged, in violation of Article XI, Sections 1 and 3 of the State Constitution, which commands, the Legislature to maintain and support a military force of at least ten thousand men. On that ground they cannot be removed in this proceeding. The refusal to vote for reasonable military appropriation bills might constitute misconduct in office, for which they may be subject to removal; but these five Assemblymen have not as yet been given an opportunity, at the 1920 session, to vote for or against such bills. Their misconduct in a prior House might have given that House the power to remove them for misconduct in office; but the Legislature of 1920 is in no position to question that, since the Legislatures of 1917, 1918 and 1919 did not deem the votes of the Socialist members, on these appropriation bills, misconduct in office then. (See case of Senator James Wood, Senate Journal 1872, p. 639.)

This point is not free from doubt. In the case of Jonathan P. Allds (Senate Document, Vol. 16, 1910), the State Senate went contrary to its own ruling in the Wood Case. Supporting the doctrine laid down in the Allds case, is the case of Whitmore of South Carolina, in the House of Representatives of the United States. In the so-called "Credit Mobilier cases" (2 Hind's Prec. 852), the House of Representatives, claimed the right to expel for misconduct in an anterior House, for the offense of bribery. But note the language of the report adopted in that case.

"If two-thirds of the House shall see fit to expel a man because they do not like his religious principles, or without any reason at all, they have the power, and there is no remedy except by appeal to the people. Such exercise of the power would be wrongful, and violative of the principles of the Constitution, but we see no encouragement of such wrong in the view we hold."

In other words, the report conceded that, if it exercised the power of expulsion in that case, it would be purely physical power. But it was not deemed dangerous in that particular case, upon the general theory, that, if you convict a thief, even though you do it illegally, nobody will care much about the thief's constitutional and legal rights. With such a theory, we cannot agree.

The House of Representatives finally declined to expel Ames and Brooks (Cong. Globe, 42d Congress, Third Session, *pp.* 137-195). So that the so-called "Credit Mobilier Cases" do not seem to be authoritative on the point.

The fact that Orr, Waldman, Claessens and Solomon voted against the general appropriation bills, when exercising their functions of members of Assembly does not convict them of misconduct under sections 1 and 3 of article XI of the State Constitution. Many democrats and republicans have done that, and have done that quite often. It was never deemed misconduct in office. If the vote of the four socialists charged with such misconduct, had been against an appropriation bill, solely for the purpose of maintaining the militia required by the Constitution, then such a question would be before us. They may have had numerous proper reasons for voting against the general appropriation bills. That charge is wholly untenable.

The cases of Justice George G. Barnard, and Governor William Sulzer have no bearing on this case. Judge Barnard and Governor Sulzer were impeached under entirely different constitutional provisions than concern us here.

The power to expel a member for misconduct, rests upon a different principle than the power to determine his qualifications. There is no constitutional provision on the subject of expelling a member for misconduct in office. It is a proceeding to determine the qualifications of the Socialists, to have any voice in the conduct of the House.

There is quite a difference between a proceeding to expel for misconduct, and saying to the people of the State, "You cannot elect and seat your representatives, unless, after you have elected them, we, upon our own ideas of what qualifications are necessary or desirable, approve of their qualifications."

The recent case of Victor Berger, in the House of Representatives, the only precedent of a Socialist unseated after being duly elected, is also not in point on either side of the controversy.

Berger was expelled upon constitutional grounds, for giving aid and comfort to the enemy after having taken his oath of office, a ground for removal expressly provided by Article XIV, section 3 of the Federal Constitution.

We find no such authority in our State Constitution.

To give the State Legislature power to remove a duly elected member of the Assembly for disqualifications based upon the

grounds of disloyalty, giving aid and comfort to the enemy, or the imposition of other qualifications, necessary to have a loyal Assembly, and to protect our government from having enemies of the State, as lawmakers, we will have to amend our State Constitution. The question of the advisability of such constitutional amendment we cannot pass upon in these proceedings.

The theory on which this ouster is sought to be sustained is not a novel one. It is very ably presented in the brief of the Attorney-General. The contention is made that because the Socialist Assemblymen were disloyal to the nation in time of war; because they have advocated directly or indirectly the use of force to overthrow the government, that because they had repudiated the doctrine of allegiance to the United States and instead thereof gave their allegiance to international Socialism, that because they were not in fact members of a political party, but members of an organization which masqueraded in the form of a political party for propaganda purposes only, that, therefore, when they took the oath of office they did not in fact honestly take the oath, that the oath they took was a false one, that they uttered only the words of the oath, but did not in their hearts believe it.

The Constitution requires an oath of office as a qualification for member of Assembly. If the five Socialists did not take the oath of office they are disqualified, and it is argued that if they took a false oath we would have the right to inquire if they took the oath honestly or falsely, as bearing upon their constitutional qualification.

It is argued that it is not the mere form of taking the oath that constitutes the oath, that it is the substance of it, the truth of it that constitutes the oath; that the taking of the oath is not to be regarded as a meaningless form or the mere mumbling of words.

That contention has a great deal of force upon its face. It is not, however, a new question. Let us examine it.

The oath of office prescribed by Article XIII, section 1, consists of two parts. We will take the second first:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contribute, or offered, or promised to contribute, any money or other valuable thing as a consideration or reward for giving or withholding a vote at the election at which I was elected to said office, and have not make any promise to influence the giving or withholding any such vote."

This is an oath concerning a fact, fairly simple of determination. Although that particular part of the oath is not involved here, and the Socialist Assemblymen are not charged with a violation of this portion of the oath, let us assume that they were so charged and sought to be ejected on the theory of a disqualification for a false oath.

In the case of *People ex rel. Bush v. Thornton* (25 Hun 456) a duly elected county judge was sought to be removed upon this precise question. The court, there by, Bokes, J. (at page 468) said:

"It was further held, at Special Term, that the defendant was not eligible to the office to which he was elected by the electors of the county, because he could not truthfully take the oath of office; that because he could not truthfully take the oath of office he was in no better position to retain the office and discharge its duties than if he had neglected to take the oath.

"This ruling we deem to be unsound. Where, in the Constitution or in the laws of this State, is it declared that false swearing in taking the oath of office disqualified a person from holding the office to which he was elected? We are not cited to any such constitutional or statutory provision, nor are we aware of any. Such false swearing may be perjury, but the crime of perjury has certain pains and penalties attached to it by law. Can the Court add to them any others not declared either by the Constitution or laws? This question is answered by our conclusion on the subject last above considered. As has been already stated, it does not lie with the Court to enhance the pains, penalties and forfeitures provided by law for the punishment of crime; nor can it add any disability to these pains and penalties not expressly declared by the Constitution or laws.

"Inability to hold office would follow indictment and conviction of perjury as the statute declares that an office shall become vacant in case the incumbent shall be convicted of an infamous crime.

"The law requires that a person elected to office shall take and subscribe the requisite oath of office, and that if he shall omit so to do within the prescribed period the office shall become vacant. But it does not further declare if the officers shall not swear to the truth in taking such oath,

or that he shall in that case be disqualified from holding the office."

It may be that if the Assembly had to decide this question in the proceeding at bar it might reject the rule laid down by the courts on this point. But as this question is not before us here, except for illustration as to the portion of the oath of office directly involved here, we proceed to the pertinent part of the oath of office.

The first part of the oath is the basis of the Attorney-General's contention, and it reads as follows:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New York, and I will faithfully discharge the duties of the office of Member of Assembly according to the best of my ability."

That is the part of the oath which the four Socialists are charged with being incapable of taking, and having taken falsely.

In connection with the taking of this part of the oath of office, it must be borne in mind that the oath does not make the slightest representation as to any act or opinion of the past. It only makes a promise for the future; that is, that during their future course of action they will support the Constitution of the State and of the United States.

The charge, therefore, that these five men, by their past actions, opinions and notions have completely disqualified themselves from taking the oath of office seems to us unsound, because no matter what their opinions were in the past, the taking of the oath of office was a solemn promise as to their conduct for the future.

The purpose of the oath, as we see it, is only with a view to proper conduct in the future. If, after taking the oath of office, the five men under investigation had done any act or deed, in the conduct of their office, in violation of their oath, they would be subject to suspension or expulsion for violation of their oath of office.

But we cannot see that there is anything in the oath of office which requires the five Assemblymen under investigation to purge themselves of any evil conduct or opinion of the past.

We have the authority of the courts to the effect that even though an oath taken be a false one, it is not *ipso facto* invalid. (People ex rel. Bush against Thornton, 25 Hun, 456.)

The difficulty with the theory of the false oath is that it requires us to make a finding of fact as to the state of mind of the five men

on January 7th, 1920, when they took their oath of office. We are asked to make a finding as to their state of mind, based upon the prior declarations of these men, upon the theories and beliefs that they subscribed to, and, in addition to that, certain declarations, manifestoes, and speeches of other organizations and men, which we are asked to impute to them. For instance: We are asked to impute to these five Socialists the declarations of some of the recognized leaders of the Socialist Party, such as Eugene V. Debs and Victor Berger, who were both convicted by American juries under the Espionage Law, upon the theory that it has some bearing upon the state of mind of the five Socialists.

It is said that this is permissible under the rules of evidence applicable to conspiracy cases.

But this is not a conspiracy case, and therefore we are not concerned with the question as to whether what Debs and Berger and others said becomes part of the state of mind of Waldman, Orr, deWitt, Solomon and Claessens.

To base such a serious act as the exclusion for lack of qualifications of duly elected representatives of the people upon a theory which has for its foundation the existence or non-existence of a certain state of mind, leads into dangerous paths.

There are many precedents in the criminal law to show that intent and motive may be shown by prior acts and declarations. But we know of no authority or rule of logic to help us in determining the existence or non-existence of a certain state of mind on a certain definite day. A state of mind is almost incapable of proof. It is impossible to creep into the recesses of the minds of the five Assemblymen to find out whether on January 7, 1920, they believed that force and violence was the proper method of changing our democratic government into a Socialist government.

We have before us the testimony of three of the respondents that they believed themselves fully capable of taking the oath of office, that they fully and honestly intended to support the Constitution of the United States and of the State of New York according to their best lights. Even if their testimony in that report was untrue it seems to us that we are absolutely helpless in that we have no known means of determining the truth of that question.

An expert in psychological analysis might have been able to help us upon that question. If there were any known human means of determining a state of mind with any degree of con-

fidence that the determination was reasonably just, we should not hesitate to make a finding of fact one way or another, and then to determine the law applicable to the facts, either in harmony with or against the decisions on that point, made by the courts.

But we feel ourselves incompetent to determine a state of mind and to believe that our determination will have any basis of justice. We do not feel that such a theory if made a precedent in an ouster proceeding of this kind, is for the good of constitutional government. It is fraught with too many unknown possibilities.

At the beginning of this investigation, one of counsel for the Socialists said, that, if it were shown, that the Socialist Party urged its members to refrain from taking part in the war, and in the production of munitions, he with the five members on trial, "would have nothing to say but leave these chambers in humiliation." The Attorney-General urges that this statement is an admission as to the law applicable to the case; that, if that fact were shown, it must act as a disqualification of the five members on trial to sit in our body.

We decline to decide this case upon any admission as to what is or is not the law, by one of Socialist counsel. An admission of counsel for either side, as to what is or is not the law, would not decide this case. The principle here involved is too big to be decided on "admissions" as to the law, by either side to the controversy.

We have decided this case on the law as we found it and not upon any "admissions" by either side as to what law is applicable at bar.

It is quite apparent, from these proceedings, that the people of five Assembly districts chose to elect to the Assembly five men, whose notions of loyalty to the United States irreconcilably clash with ours,— whose notions of government are unalterably opposed to ours; whose ideas and ideals of life, liberty and happiness, are entirely contrary to the ideas and ideals of the great majority of American people.

We have, therefore, such a vital antagonism of opinion as to be wholly irreconcilable.

What is the American way of solving such a conflict? Is it for the majority to eject from political life the small group deemed obnoxious by the great majority? We do not think so. The doctrines of this small minority are false, are opposed to all that is American. Are we, therefore, afraid of the preaching of

false doctrines? We do not believe that America need fear any false prophets. On the other hand, if the doctrine that we now deem to be false, be true, the prophets of that view should be allowed to preach and convert. That to our mind is the true American way of dealing with the situation.

But, that, we do not submit, as an expedient way of deciding this case. We decide this case, not on what is expedient; or should be the American way of deciding it. We decide it on the law, as laid down by the Constitution of the State.

Under that law we cannot exclude any of the five Socialist Assemblymen, because they are disloyal or because they believe that force and violence are necessary to establish the Socialist state.

They possess the necessary constitutional qualifications. We cannot prescribe others except by constitutional amendment, or perhaps by statute.

We, therefore, recommend that the Assembly reseal the duly elected members of the House, Louis Waldman, August Claessens, Charles Solomon, Samuel A. deWitt and Samuel Orr.

All of which is respectfully submitted.

Dated, Albany, March 29, 1920.

(Signed) WILLIAM S. EVANS.



## MEMORANDA BY M. BLOCH

In the Matter  
of the

Investigation by the Assembly of the  
State of New York as to the Qualifica-  
tions of LOUIS WALDMAN, AUGUST  
CLAESSENS, SAMUEL A. DEWITT,  
SAMUEL ORR and CHARLES SOLOMON  
to retain their seats in said body.

By virtue of a resolution adopted by the Assembly, January 7, 1920, the Committee on Judiciary was empowered and directed to investigate and report as to the *qualifications* and *eligibility* of Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon, and each of them respectively, to a seat in the said Assembly.

The five Assemblymen named in the resolution were duly and properly notified of such resolution and permitted to appear before the said Committee on Judiciary, which they did, in person and by counsel.

The Committee was advised and represented by the Attorney-General of the State, and counsel associated with him in the conduct of the investigation.

Certain rules were adopted by the said Committee on Judiciary, one of which was that the rules and procedure of the Supreme Court of the State of New York would prevail. Having adopted such rules, the Committee must regard them, otherwise its conclusions will be held in contempt by those to whom they may be presented.

It was not a violation of the rules of law and procedure to allow great latitude to counsel on both sides, and accept as testimony a mass of material bearing upon a possible question or questions of fact that might be raised upon final presentation of the case; but it would be a repudiation of the rule to accept as *evidence* anything that is incompetent, improper or immaterial. It is only such matter as bears upon the questions involved that may be considered in making a report to the Assembly, and to apply such rules of

evidence is manifestly the duty of the Judiciary Committee in accordance with its declared intention.

It is also a plain and reasonable rule of legal procedure that one may not be judge by evidence of facts with which he is not connected and for which he is not directly responsible. This report should not be "street-corner verdict," but may reasonably be expected to convey the deliberate conviction of members of the Committee, based upon the rules which they adopted and promulgated.

The fact cannot be disputed that each one of the persons under investigation, and all of them are members of the Socialist Party, and are mutually pledged to its declarations and general principles. As experienced and practical men of affairs political, the members of this Assembly know that they cannot be held personally responsible for every declaration made in any party platform. What member of the Assembly would submit himself to such a test as a partisan? If the party platform and other official declarations are not a fair individual test, how much less are statements put forth as party doctrine by those who assume party leadership and control.

Upon this hearing it was conceded, and plainly stated, that the *one* question of fact to be considered and determined is that of **LOYALTY**.

All matters of opinion, and the doubtful definition of terms, are thus out of the case, if any attention is to be given to the rules adopted. To find and report the five Assemblymen disloyal, it must have been shown by legal evidence *that they, and each of them*, are guilty of disloyal acts, or were contemplating such acts when they took the constitutional oath of office and were challenged at the bar of this House.

Much testimony, oral and written, is before us to show that the Socialist Party of America during the late World-war recognized no duty to support the United States in the part it took in that conflict, and that members of the Socialist Party generally, while willing to take advantage of the opportunities offered and protection guaranteed by the United States Constitution and laws, declined and refused to render any service which would sustain the government under which they lived during such a great crisis; *and in this respect the attitude of the Socialist Party merits the severest condemnation as un-American and unpatriotic.*

No evidence, however, was produced to show that the attitude of the Socialist Party was other than a *negative* one of withholding aid and support to the United States, rather than a *positive* one of giving aid and comfort to its enemies.

Certain evidence was offered as to specific acts of Assemblymen Claessens, Solomon and Waldman; but this evidence is insufficient to warrant any judicial action here as to those three members. Indeed, it was argued by counsel for the Committee that such evidence as to individual acts was offered to show the attitude of members of the Socialist Party of America, and that all five members stand upon the same footing as members of that party. The acts charged were public and notorious, but not one of them was made the basis of a criminal charge although the Espionage Act, and sections 160-166 of the Penal Law of this state dealing with anarchy, were in full force and effect.

Section 10 of Article III of the Constitution of the State of New York provides that each house of the legislature shall "be judge of the *election, returns and qualifications* of its own members." Under this section, we have no doubt of the absolute power of the Assembly to exclude from its membership any person whatsoever, for any reason that it may determine to be insufficient, and the action of the Assembly will be final because of the fact that there is no means of appeal from its decision.

Such provision of the fundamental law places a great responsibility upon the membership of the Senate and Assembly of the State of New York. In effect it binds each member, on his good conscience to observe the law and follow its rules. The assumption must be that a law-maker will not become a law-breaker, and that a representative of the people will not set aside or ignore a deliberate expression of choice made by any of his fellow citizens.

That is the manifest "spirit" of the constitutional provision.

The election and returns upon which the five men make their claim to membership has not been disputed and the fact stands in their favor. The only question left to be considered is one of *qualification*.

#### *Section 1 of Article XIII:*

"Oath of office.—Section 1. Members of the Legislature, and all officers executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter

on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of \_\_\_\_\_, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"'And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding of any such vote,' and no other oath, declaration or test shall be required as a qualification for any office of public trust."

The first qualification for an elective office is a majority vote by the people of the State or a political subdivision thereof. It is a matter which must be considered that under our form of government all power comes from the people; and when they have delegated such power by vote their sovereignty should be *respected by every good citizen*.

28,474 duly qualified electors cast their ballots for the Assemblymen under investigation, and their choice is a matter of record in duly certified returns made by election officials. There is no question of *eligibility* before this body, and only a question of *qualification*. Certain qualification must be allowed, and the only remaining *one* is involved in a definition and construction of the term "*Loyalty*."

As a fair expression of the American idea of loyalty in war time, we may consider the words of Daniel Webster in the year 1814:

"With respect to the war in which we are *now* involved, the course which our principles require us to pursue cannot

be doubted. It is now the law of the land; as such we are bound to regard it. Resistance and insurrection form no part of our creed. If we are taxed to carry on this war, we shall disregard certain distinguished examples, and shall pay. If our personal services are required we shall yield them to the precise extent of our constitutional liability. At the same time the world may be assured that we know our rights and shall exercise them. *We shall express our opinion on this, as on every measure of the government — I thrust without passion, I am certain without fear.*"

Liberty involves *the right* to think wrong.

But, regardless of opinions and their free expression during a time of stress, we have another consideration to make which is one of *law* and not of *fact*.

Is disloyalty, based upon prejudice against any war or the particular war which this country has been engaged, a positive and *legal disqualification* for a seat in this Assembly? We cannot lawfully tear the Constitution apart and read its provisions separately to make a point for or against anybody. What is the fair interpretation of the word "test" as used in Article XIII? Our courts have answered that question for us, and, although they cannot bind this legislative body, a committee of lawyers may be expected to respect such decisions.

The section of the Constitution last cited comprehends more than a mere prohibition of test oaths, such as are familiar to the student of English history. It deprives the Legislature not only of all power to exact any other oath, but also any declaration or test as a qualification of office."

The cases cited are the leading ones in this state on the question. They constitute the established law of this state. In the Rathbonne-Wirth case, Judge Gray quoted Kent as follows:

"As each house acts on these occasions in a judicial character its decisions, like the decisions of any other court of Justice ought to be regulated by known principles of law and strictly adhered to (1 Commentaries, 235). We must, therefore, be guided by the before mentioned cases."

To bring the matter down to more recent times, let me refer to the case of Lucas E. Decker, a member of the Assembly elected in 1917 from the county of Queens. This case seems analogous to the case at bar. Lucas E. Decker was duly elected a member of this Assembly in the year 1917. His election to office was duly certified to by the proper election officials as provided by law. He took his oath of office (the same oath as that taken by the men under investigation). A complaint was filed with the Clerk of the Assembly in 1918 charging Decker with obtaining his election by fraudulent means and alleging among other things he avoided the Selective Draft Act in that he was never discharged from military service. It is not necessary to review the entire facts of this case, but merely to recite that the Committee found the charges in the complaint to be true and then decided "*that in order to remove a member of Assembly from office under the constitution some question involving the election or returns is necessary before the Assembly has jurisdiction in the premises.*" (Assembly Journal 1918, Vol. 1, p. 105.)

I am therefore inclined to accept the interpretation of the Courts upon this section of the Constitution. In 1867 the Legislature by Chapter 194 disqualified any delegate to a constitutional convention who refused to take the test oath to the effect that he had never voluntarily borne arms against the United States since becoming a citizen; that he had given no aid, countenance or counsel to persons engaged in armed hostilities to the United States; that he had not accepted or attempted to exercise the functions of any office under any authority in hostility to the United States; that he had not yielded voluntarily support to any pretended government or power within the United States hostile or inimical thereto and that he had not deserted from the military or naval service of the United States or left this State to avoid a draft during the Rebellion. In the case of *Green versus Shumway*, 30 N. Y. 418, the Court of Appeals declared this act unconstitutional as an unwarranted and illegal restriction on the right of suffrage.

In the case of *Rathbone v. Wirth*, 150 N. Y. 459, the court held unconstitutional an act of the Legislature which created a Police Board for the city of Albany which contained a provision as follows: "No person is eligible to the office of Police Commis-

sioner unless at the time of his election he is a member of the political party or organization having the highest or next highest representation in the Common Council." The court construed together the provision against supplementary test and the provision of Article I, section 1, of the constitution, that "No member of this state shall be disfranchised or deprived of the rights or privileges secured to any citizen unless by the law of the land and the judgment of his peers." The court said, "When the two sections of the Constitution above referred to are read together and are all read in the light of the *historical events and notorious abuses of power which led to their insertion in the Constitution*, it cannot, I think, be doubted that they are broad enough in their terms and that they were in fact *intended to prevent the enactment of laws prescribing any class of citizens as ineligible to hold office by reason of political opinions or party affiliations.*"

If no other test can be applied as is stated in the before mentioned cases and there is no question of the impropriety of the election or the returns then it becomes our duty to immediately reseate Louis Waldman, August Claessens, Samuel A. deWitt, Samuel Orr and Charles Solomon and restore these men to the privileges of their seats. It is very apparent that the Assembly can not exclude members who differ nearly politically or economically with that of the majority. The right of the Legislature to exclude or expel from membership must be based on specific facts of misconduct.

In determining the various questions incidental to this proceeding several considerations should be kept in mind clearly and at all times. First, the proceeding is in the nature of a criminal action and therefore question of law and fact should be resolved in favor of the accused Assemblymen unless otherwise established beyond a reasonable doubt; Second, the fundamental rights of the constituents are involved and such right should not be prejudiced except with the greatest reluctance and only on evidence which permits of no question; Third, a tremendous precedent, in principle more important than any proposition since the vindication of our national integrity by the holocaust of 1861, intimately affecting the constitutional guaranties of freedom of opinion and the right to have our opinions represented in the law making body

will be established if the accused Assemblymen are unseated and this consideration demands that every doubt concerning the law and every uncertainty concerning the facts should stand in the way as a barrier to its establishment. Therefore to unseat these men would be in violation of our own oath of office and jeopardize the principle of constitutional government and civil liberty.

Respectfully submitted,

MAURICE BLOCH.

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**PROCEEDINGS**

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**IN ASSEMBLY**

**MARCH 31, 1920**

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[2808]



## STATE OF NEW YORK

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# IN ASSEMBLY

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JOURNAL OF MARCH 31, 1920.

MR. SPEAKER.—The Report of the Judiciary Committee recommends the adoption of five separate and distinct resolutions. The question arises, first, upon the agreeing to the report so far as it relates to the first recommendation and the adoption of the resolution in relation to Louis Waldman. The Clerk will read.

THE CLERK:

Resolved, That under the facts and circumstances of this case, Louis Waldman is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

AYES 115

NOES 28

Mr. Speaker declared the seat to which Louis Waldman was elected vacant.

Mr. Speaker then stated the question to be upon agreeing to the report so far as it relates to the second recommendation and the adoption of the resolution in relation to August Claessens.

**THE CLERK:**

**RESOLVED**, That under the facts and circumstances of this case, August Claessens is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

**AYES 116**

**NOES 28**

Mr. Speaker declared the seat to which August Claessens was elected vacant.

Mr. Speaker then stated the question to be upon agreeing to the report so far as it relates to the third recommendation and the adoption of the resolution in relation to Charles Solomon.

**THE CLERK:**

**RESOLVED**, That under the facts and circumstances of this case, Charles Solomon is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

**AYES 116**

**NOES 28**

Mr. Speaker declared the seat to which Charles Solomon was elected vacant.

Mr. Speaker then stated the question to be upon agreeing to the report so far as it relates to the fourth recommendation and the adoption of the resolution in relation to Samuel A. deWitt.

**THE CLERK:**

**RESOLVED**, That under the facts and circumstances of this case, Samuel A. deWitt is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

**AYES 104**  
**NOES 40**

Mr. Speaker declared the seat to which Samuel A. deWitt was elected vacant.

Mr. Speaker then stated the question to be upon agreeing to the report so far as it relates to the fifth recommendation and the adoption of the resolution in relation to Samuel Orr.

**THE CLERK:**

**RESOLVED**, That under the facts and circumstances of this case, Samuel Orr is disqualified to have or to hold a seat in the Assembly of the State of New York as a member thereof, and that the seat to which he was elected be declared vacant.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

**AYES 104**  
**NOES 40**

Mr. Speaker declared the seat to which Samuel Orr was elected vacant.



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# APPENDIX

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**TESTIMONY**  
**OF**  
**LUDWIG C. A. K. MARTENS**

**TAKEN BEFORE**

**THE JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK INVESTIGATING  
SEDITIONOUS ACTIVITIES**

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**CLAYTON R. LUSE, CHAIRMAN**

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# TESTIMONY OF LUDWIG C. A. K. MARTENS

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## MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE STATE OF NEW YORK TO INVESTIGATE SEDITIONARY ACTIVITIES

(CLAYTON R. LUSK, Chairman.)

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CITY HALL, CITY OF NEW YORK,  
SATURDAY, November 15, 1919.

*Present:*

Assemblyman Peter P. McElligott,  
Assemblyman William W. Pellet,  
Assemblyman Edmund B. Jenks.

*Appearances:*

Hon. Frederick R. Rich, Special Deputy Attorney-General,  
Hon. Samuel A. Berger, Deputy Attorney-General,  
Archibald E. Stevenson, Esq., Associate Counsel.

Acting Chairman, Assemblyman Peter P. McElligott.  
The Committee was called to order at 11:25 a. m.

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The Chairman.—The Committee will come to order. In the absence of Senator Lusk, Chairman, I have been asked to preside at this meeting.

The Committee issued a subpoena which was served upon Ludwig C. A. K. Martens, who represents himself to be the representative to the United States of America of the Russian Socialist Federal Soviet Republic. The subpoena directed the attendance of Mr. Martens to-day at this meeting and also required him to bring with him certain documents, letters and other papers for the inspection of this Committee in connection with our investigation. Mr. Martens sent a letter to this Committee and it will

be read. It is on the stationery of the Russian Socialist Federal Soviet Republic.

Before proceeding with the reply of Mr. Martens, I think it well to show that a subpoena was served upon Mr. Martens, and his reply to the subpoena.

Mr. Berger.— Mr. Chairman, I call Mr. Wexler.

ISIDOR WEXLER, having been duly sworn, testified as follows:

By Mr. Berger:

Q. Will you give us your full name? A. Isidor Wexler.

Q. And you are a corporal in the State Constabulary of the State of New York? A. Yes, sir.

Q. And you are assigned to the Legislative Committee investigating seditious activities in the State of New York? A. Yes, sir.

Q. Did you on the 14th day of November, 1919, at 110 West 40th street, serve a subpoena upon Ludwig C. A. K. Martens? A. Yes, sir.

Q. Of which is a copy (handing paper to witness)? A. Yes, sir. I served it at 11:25 a. m.

Q. And did you at the same time tender, give and leave with Martens said subpoena and two dollars and a half in cash? A. Yes, sir; it was pinned right on the subpoena.

Q. Where was this subpoena served? A. At 110 West 40th street, room 303.

Q. That is in this borough and city? A. Yes, this borough and city.

Q. How did you know that the person you served with that subpoena was the Ludwig C. A. K. Martens mentioned therein? A. I have seen Martens in Madison Square Garden at one of the meetings there.

Q. That was on June 20, 1919? A. Yes, sir.

Q. And you heard him speak there? A. Yes, sir; he was introduced as Mr. Martens, Ambassador from the Soviet Government in Russia.

Q. And the person you served was the same person you saw there as Martens, Ambassador from the Soviet Russian Government? A. Yes, sir.

Mr. Berger.— I will read the subpoena into the record:

“THE PEOPLE OF THE STATE OF NEW YORK

“To Ludwig C. A. K. Martens, 110 West 40th street,  
New York City:

“Greeting: We command you, That all business and excuses being laid aside you be and appear in your own proper person before the Committee of the Legislature of the State of New York, appointed pursuant to the resolution duly passed on the 26th day of March, 1919, at the Aldermanic Chamber, in the City Hall, Borough of Manhattan, City of New York, on the 5th day of November, 1919, at 10:30 o'clock in the forenoon of that day, to testify and give evidence in a certain investigation now pending of seditious activities within the State of New York, and bring with you the following books, papers and other documents now in your possession and control, which the Committee deems relevant and material to the investigation, the check books, bank books, books of account, both of yourself, and of the Soviet Bureau, located at 110 West 40th Street and elsewhere, and also all documents, letters and other papers received by you and your Bureau from Soviet Russia, as well as copies of letters, documents and other papers sent by you and your Bureau to Soviet Russia, all between January 1st, 1919 and this date, also copies and records of all so-called passports and credentials issued by you to the agents of yourself and your Bureau, and for a failure to attend you will be deemed liable to the penalties prescribed by law and hereof fail not at your peril.

Witness, Hon. Clayton R. Lusk, Chairman of our said Committee, at New York City, this 14th day of November in the year of our Lord, one thousand nine hundred and nineteen.

(Signed) Clayton R. Lusk,  
Chairman.

(Signed) Charles D. Newton,  
Attorney-General, Counsel.

A true copy.”

The Chairman.— Mr. Berger, does this require him to be here at a certain hour?

Mr. Berger.—It requires him to be here in his own proper person at 10:30 o'clock in the forenoon of today and requires him in addition to bring his books and papers. It is a personal subpoena and subpoena duces tecum.

The Chairman.—Was that communication of which you spoke received by the Committee today?

Mr. Berger.—Yes, received today.

ARCHIBALD E. STEVENSON, having been duly sworn, testified as follows:

By Mr. Berger:

Q. Mr. Stevenson, you are an attorney at law? A. I am.

Q. And Associate Counsel to the Joint Legislative Committee Investigating Seditious Activities, are you not? A. I am.

Q. Do you know of your own knowledge whether or not Senator Clayton R. Lusk, Chairman of this Committee, signed a subpoena of which this is copy? (Showing witness paper.) A. He did, in my presence.

Q. In your presence? A. Yes, sir.

Q. And did you pursuant to the instructions given you by Senator Lusk, Chairman of this Committee, cause that subpoena to be served upon the person therein named, Ludwig C. A. K. Martens? A. I did. I received instructions from Senator Lusk at the Murray Hill Hotel yesterday morning at 9:15, to take this subpoena and cause it to be served upon the said Ludwig C. A. K. Martens, wherever he was to be found.

Q. And it was duly served as you have heard in the testimony this morning to the said Martens? A. Yes, sir.

Mr. Berger.—Mr. Chairman, a letter was received this morning purporting to come from L. Martens, which, with permission, I will read into the record.

This letter is on the letterhead of the Russian Socialist Federal Soviet Republic, Bureau of the Representative in the United States of America. Address: World's Tower Building, 110 West Fortieth street, New York, November 15, 1919. No. D-10-9.

"Honorable CLAYTON R. LUSK, *Chairman, Committee of the Legislature of New York, New York City.*

"SIR.—I respectfully decline to comply with that part of the subpoena served by your order upon me which requires

me to produce 'all documents, letters, and other papers,' received by me and my Bureau 'from Soviet Russia, as well as copies of letters, documents and other papers' sent by me and my bureau 'to Soviet Russia' also copies and records of all so-called passports and credentials issued 'by me to' the agents 'of myself and my Bureau.'

"1. I take the position that your request for the production of copies of my correspondence with 'Soviet Russia' which is evidently intended to designate the Russian Socialist Federal Soviet Republic, which I have the honor to represent in the United States, is clearly in excess of the jurisdiction of your Committee and without warrant in law. Under the rules of international law the communications between my government and myself are privileged and not subject to the examination by the government of any other nation or State.

"2. If any inquiry into my relations and correspondence with Soviet Russia were warranted by law, the State Department of the United States Government would be the sole authority vested with jurisdiction in the matter.

"3. Your Committee was created for a definite and limited purpose, which cannot under any circumstances be held to include matters of an international character.

"For the reasons stated I hereby decline to comply with the above-quoted portions of your subpoena.

"Respectfully,

(Signed) "L. MARTENS,

"Representative in the United States of America of the Russian Socialist Federal Soviet Republic."

Mr. Stevenson.—Mr. Chairman, I think it might be wise to have the corridors of the building searched.

The Chairman.—I was about to make the request that the name of Mr. Martens be called to see whether he is present. Is Mr. Martens present?

Mr. Berger.—Mr. Wexler, will you call the name of Mr. Martens in the Aldermanic Chamber, across the hall, and in all the corridors. Call the name Ludwig C. A. K. Martens out loud.

Mr. Wexler.—Yes, sir.

**Mr. Stevenson.**—**Mr. Chairman,** I think it is well to have noted on the record, although **Mr. Martens** has presented his credentials to the State Department at Washington, the Russian Socialist Federal Soviet Republic has up to this time not been recognized as a government, and it has been publicly stated by the officials of the State Department that **Mr. Martens** had no standing in this country as an envoy of the government; and it is, therefore, not clothed with any of the privileges or immunities of a foreign representative.

**The Chairman.**—**Yes,** I think it is well to note that. I understood from **Mr. Martens**, when he appeared before this Committee some months ago that he had sent his credentials to Washington to the Department of State, and that the only notice he received in connection with the receipt of his credentials at Washington was a newspaper despatch which he read the next day that his papers had been received; but he had never received any official recognition either of the receipt of his communication or any further action.

(**Mr. Wexler** stepped out from the room, and after a short absence returned.)

**Mr. Wexler.**—**No, sir;** he is not in.

**Mr. Berger.**—**Have you called his name out loud?**

**Mr. Wexler.**—**Yes, sir;** three or four times.

**The Chairman.**—**The Committee will note it is now twenty-two minutes to twelve, on November 15, 1919, and the witness has failed to appear.**

**Mr. Berger.**—**May I ask what the Committee desires done in reference to this witness who has willfully, deliberately and without reasonable cause failed to obey the subpoena duly issued under the hand and seal of the Chairman of this Committee?**

**The Chairman.**—**The Committee is empowered with certain rights in connection with its work; rights under the legislative law and rights under the penal law of the State of New York. The witness can be punished as for a contempt; and it is really necessary that the Committee should take some action in this regard, because it is a defiance of the powers of the Committee, and also of the powers of the State of New York through its Legis-**

lature. The State of New York is engaged in a very serious effort just now to preserve the government of the State of New York, as well as the government of the United States of America, and the inquiry will be helpful to protect the government.

The witness has refused to produce these documents, and besides that, he has refused to attend personally. He has given something in the nature of a statement for his failure to produce these records, but I do think, and I respectfully submit to the members of the Committee, that his excuse is not sufficient to satisfy the members of this Committee. If he were recognized by the government of the United States as an ambassador of this so-called Russian Republic, he would have certain rights and certain immunities and he could not be compelled to testify or produce his records; but he has no standing of this kind, and he has never been recognized by the government. It is really a subterfuge, as far as we are concerned, on his part, to offer an explanation of that kind. I think the Committee should take such action as the law authorizes for a contempt of the action of this Committee, and the Chair, with the agreement of this Committee, will authorize counsel for the Committee to proceed in accordance therewith.

Mr. Berger.—We will, sir.

Mr. Stevenson.—Do you think it would be wise to adopt a resolution directing counsel to prepare such papers as might be necessary?

Mr. Berger.—I think the Chairman's statement, agreed in by the other members of the Committee, is sufficient.

Assemblyman Pellet.—I make the motion that counsel be directed to take such proceedings as will be necessary.

Assemblyman Jenks.—I second the motion.

(The motion was put to the Committee by the Chairman and carried.)

The Chairman.—The Chair directs counsel to proceed in accordance with the action.

Is there anything else for the Committee to-day?

Mr. Stevenson.—I think not.

The Chairman.— I wished to state further that the Committee may take both civil and criminal action in this regard, as provided by law.

Mr. Berger.— In view of the fact that the contempt is a violation of both the Code of Civil Procedure, and the Code of Criminal Procedure.

The Chairman.— We will now adjourn to meet on Monday afternoon at 2 o'clock.

At 11:45 A. M. the Committee took a recess to Monday, November 17, 1919, at 2:00 P. M.

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONOUS ACTIVITIES**

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ALDERMANIC CHAMBER, CITY HALL,  
NEW YORK, SATURDAY, Nov. 15, 1919, 2.30 P. M.

*Before:*

Assemblyman Peter P. McElligott, Acting Chairman;  
Assemblyman Pellet,  
Assemblyman Jenks.

*Appearances:*

Samuel A. Berger, Esq., Deputy Attorney-General, Associate  
Counsel.  
Archibald E. Stevenson, Esq.

*In attendance:*

Ludwig C. A. K. Martens.

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Acting Chairman McElligott.—The Committee met this morning at 10:30 A. M. A subpoena had been issued for the appearance of Mr. Martens, requiring him to appear, and calling for the production of certain records by him.

Mr. Martens failed to appear. Thereupon an application was made to the Supreme Court for an attachment. The application was granted, and the sheriff served the attachment, which was a bail attachment in one thousand dollars. Mr. Martens is now present before the Committee, having been brought there by Deputy Sheriff Murray of the county of New York. The Committee took a recess until 2 o'clock on Monday. If Mr. Martens is willing to promise the Committee that he will attend before the Committee at that time, he can offer bail in the sum of one thousand dollars.

Mr. Martens came forward and stated that he would be present on Monday at 2 o'clock, and a recess was accordingly fixed until that time.

The Acting Chairman.— Mr. Martens, you are required to be here on Monday next at 2 o'clock, to produce with you the books, papers, documents, records, and so forth, called for by the subpoena. Will you be here at that time with those papers?

Mr. Martens.— Yes, I will.

Whereupon, at 3:15 o'clock P. M. the Committee took a recess to Monday, November 17, 1919, at 2 P. M.

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONARY ACTIVITIES**

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CITY HALL, NEW YORK,

MONDAY, November 17, 1919, 2 P. M.

*Present:*

Assemblyman McElligott, Chairman;  
Assemblyman Pellet,  
Assemblyman Burr.

*Appearances:*

Mr. Samuel A. Berger, Deputy Attorney-General;  
Mr. Archibald E. Stevenson, Associate Counsel to the  
Committee;  
Mr. Frederick R. Rich.

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The Chairman.— The meeting will come to order.

Mr. Berger.— Mr. Martens.

LUDWIG C. A. K. MARTENS, called as a witness, being first  
duly sworn, testified as follows:

Examined by Mr. Berger:

Q. What is your full name? A. Ludwig Christian Alexander  
K. Martens.

Q. Where do you live, Mr. Martens? A. 572 Ocean avenue,  
Brooklyn.

Q. And what is your office address, Mr. Martens? A. 110  
West 40th Street.

Q. And your occupation? A. I am representing the Russian  
Socialist Soviet Republic.

Q. Where were you born? A. In Bachmut, Russia.

Q. What is your father's name. A. Karl Martens.

Q. Where was he born? A. In Germany.

Q. When did you leave Bachmut, Russia? A. When I left  
Russia?

Q. Yes; Bachmut, Russia. A. I was two years old.

Q. Where did you go from there? A. To Kursk.

Q. Kursk, Russia? A. Yes, sir.

Q. And how old were you when you left Kursk, Russia? A. Seventeen years old.

Q. What was your occupation at that time? A. I just finished gymnasium at that time.

Q. What is your mother's name? A. Christiana.

Q. Where was she born? A. In Lubek, Germany.

Q. Were you in Petrograd at one time? A. Yes, sir.

Q. You lived there for a number of years? A. Yes, sir.

Q. Until when? A. Until 1896.

Q. And how long were you in Petrograd? A. Five years.

Q. Did you receive any technical instruction of any kind while in Petrograd? A. Yes, sir.

Q. What kind? A. Technological Institute.

Q. And what degree did you receive in that institute? A. Engineer.

Q. What student organizations were you identified with while you were studying in Petrograd? A. As a student I belonged to an organization for studying Marxian theories.

Q. Did you devote considerable time to a study of the Marxian theories while you were there as a student? A. Yes, sir.

Q. Will you give us the name of the original organizations you were connected with in Russia at that time? A. I was connected with the Union for Liberation of Russian Working Class.

Q. Any others? A. No others, no.

Q. What action did the authorities take towards you with regard to your connection with this organization or any other organization? A. I was arrested in 1896 by the Russian authorities.

Q. What was the outcome of that arrest? A. I was deported from Russia.

Q. To where? A. To Germany.

Q. To what part of Germany? A. Berlin.

Q. Did you meet Nicolai Lenine, who is now Premier of Russia, at that time? A. Yes, sir.

Q. What was your connection with him? A. We belonged to the same organization.

Q. Was your association with him of an intimate character? A. More or less.

Q. Quite intimate? A. Yes, I knew him.

Q. What year was that you were deported to Germany? A. 1896 — no, I beg pardon. 1896 I was arrested; in 1899 I was deported to Germany.

Q. Were you confined in prison as a result of your activities there for any time? A. Yes, sir.

Q. For how long a time? A. Three years.

Q. What happened at the end of those three years? A. They deported me to Germany.

Q. That was the time you were deported? A. Yes, sir.

Q. What year was that in? A. 1899.

Q. Have you been to Russia since then? A. Yes, sir.

Q. When were you there? A. During the first revolution, in 1905 and '06.

Q. On what particular charge, what specific charge were you confined in prison for three years? A. The specific charge was —

Q. What was the charge or indictment or information? A. Propaganda directed against the Czar's government.

Q. Wasn't it in connection with fomenting strikes? A. No, not exactly; it was during the coronation of Czar Nicholas the Second, we made political propaganda amongst working people in Russia, and there was a big strike at the same time so we took part in the strike agitation too.

Q. What did Nicolai Lenine have to do with fomenting those strikes? A. Nicolai Lenine was arrested.

Q. What disposition was made of him? A. Sent to Siberia.

Q. How long did he stay in Siberia? A. I think for about five years.

By Mr. Berger:

Q. Who succeeded Lenine in the leadership of the particular group of which he was the head after his arrest? A. Well, the movement was not concentrated at that time. So, that practically every town had its organization. There was no permanent leader at the time.

Q. Isn't it a fact that you were one of the leaders that succeeded Lenine in your particular locality? A. No.

Q. It is not? A. No.

Q. What town in Germany did you enter after your deportation from Russia succeeding your release? A. Berlin.

Q. I think you mentioned the year before, but let us have it again, please. A. 1899.

Q. What did you do when you entered Germany, Berlin? A. I was made a soldier.

Q. A soldier in the German army? A. Yes, sir.

Q. How long did you serve in the German army? A. Two years.

Q. In what capacity? A. A common soldier.

Q. When you entered Germany, were you apprehended by the German military authorities? A. Yes, sir.

Q. What happened immediately thereafter? A. I had to enter the German army.

Q. On what authority did the German military authorities compel you to serve in the German army? A. On the theory that I am a German; because my father was a German citizen.

Q. How old were you at that time? A. I was about 26.

Q. What branch of the service did you serve in? A. The engineers.

Q. Were you ever subject to court-martial in the German army? A. What is that?

Q. Were you ever subject to court-martial in the German army? A. No, sir; I was not.

Q. When did you leave the German military service? A. 1901.

Q. Have you at this time either about you or elsewhere available any of your military papers? A. At this time?

Q. Yes. A. No, sir.

Q. You have not? A. No, sir; I have not.

Q. What became of them? A. I lost them somewhere.

Q. Where were you stationed in Germany? A. In Berlin.

Q. In Berlin? A. Yes, sir.

Q. Now, when you received your discharge from the German army, what did you do? A. I entered the Polytechnic Institute in Charlottenberg, Germany.

Q. The Polytechnic Institute in Charlottenberg? A. Yes, sir.

Q. How long were you there? A. I think over one year.

Q. Were you engaged in any revolutionary activity in Germany? A. Yes, I was.

Q. Will you tell us fully and in detail concerning this matter? A. I was engaged in the revolutionary activities as far as it concerned Russia. The German movement did not interest me. I was always in communication with Russian revolutionary organizations.

Q. Who co-operated with you in these activities directed towards Russia? A. Russian organizations which were in Berlin and some other parts of Germany.

Q. And you were in constant communication with revolutionaries in Russia while you were in Germany? A. Yes, I was.

Q. And could you send propaganda from Germany into Russia? A. Yes.

Q. Covering a period of how many years? A. Five years.

Q. And who prepared this propaganda? A. It was prepared partly in Switzerland and partly in France.

Q. But you, yourself, knew at all times the contents of the various documents and papers that you sent from Germany into Russia, and you knew it was revolutionary propaganda? A. Yes, sir.

Q. After you left Charlottenberg, where did you go, Mr. Martens? A. I went to Hamburg.

Q. In what year was that? A. In 1903. I stayed in Hamburg up until 1905.

Q. Did you still continue your revolutionary activities in Hamburg? A. Yes, sir.

Q. And did you still continue sending propaganda from Hamburg into Russia? A. Yes, sir.

Q. Where was Lenine at that time? A. In Brooklyn.

Q. Were you in communication with him? A. Yes, sir.

Q. Were you at that time in contact and communication with Brownstein, now known as Leon Trotzky? A. Yes, I was.

Q. Where was Trotzky at that time? A. He was in Berlin several times, and mostly in Switzerland.

Q. What date would you fix for that, Mr. Martens? A. I think the first time I met Trotzky was 1901 in Berlin.

Q. 1901? A. 1901.

Q. Where did you meet him thereafter? A. 1903 and 1905.

Q. Where, Mr. Martens? A. In Germany; in Berlin, mostly.

Q. Did you ever meet Trotzky, alias Brownstein, in London? A. Yes, sir.

Q. What year was that? A. In London — I never met him — excuse me, but I met him in New York.

Q. Where did you meet him in New York? A. In 1917.

Q. 1917? A. Yes, sir.

Q. What was his occupation in New York at that time? A. He was editing the Russian paper called Novy Mir.

Q. Were you connected with that paper? A. Yes, sir.

Q. In what capacity? A. I was on the editorial board of this paper.

Q. And this paper is still being published in New York City at this time? A. Yes, sir.

Q. Do you know a man named Bucharin? A. Yes, sir.

Q. Was he on the editorial staff of Novy Mir? A. Yes, sir.

Q. What position does Bucharin at this time hold in the Federated Soviet Republic which you represent here? A. He is an editor of a newspaper called Pravda.

Q. Are you familiar with the publication published in this city called Class Struggle? A. More or less; yes, sir.

Q. You know it? A. Yes, sir.

Q. It is a publication gotten out in Brooklyn? A. Yes, sir.

Q. Do you recall an issue in May of this year which contained an article by Bucharin? A. I do not recall the article, but probably it was published.

Q. Do you recall an article in that publication called Class Struggle entitled "The Church in the Soviet State," by Bucharin; do you recall that? A. Yes, I recall it.

Q. And the man that wrote that article is the Mr. Bucharin who holds this official position in Russia, and who is on the editorial staff of Novy Mir in this city? A. Yes, sir.

Q. Are you familiar with the publication called "The Revolutionary Age"? A. Very little.

Q. You know there is such a publication? A. Yes, I know there is such a publication.

Q. Did you see the issue of July 19, 1919, containing an article by the same Bucharin? A. I do not remember seeing it.

Q. What part did you take in the Russian revolution in 1905? A. We organized the Russian workingmen.

Q. What particular part did you personally take in that revolution? A. As an organizer.

Q. As one of the organizers? A. As one of the organizers.

Q. How long did your activities as an organizer continue? A. 1905 and 1906.

Q. And how did you get revolutionary propaganda from Germany to Russia? A. Oh, we had many ways to get it in.

Q. Will you describe the various ways through which you succeeded in getting this propaganda from Germany into Russia?

A. We smuggled it in.

Q. Do you recall the names of any persons engaged in that particular activity? A. No, I don't recall; so many.

Q. Are any of them here in this country at the present time? A. Not that I know of.

Q. Did you become involved with the German authorities as result of your activities in that direction? A. No.

Q. Not that you know of? A. No.

Q. Were you under observation at that time of the German authorities, as far as you know? A. Not to my knowledge, but I suspected that I was.

Q. As a matter of fact, you were not interfered with by the German authorities? A. I beg your pardon.

Q. I say, as a matter of fact you were not interfered with by the German authorities? A. No, I was not.

Q. When were you last in Switzerland, Mr. Martens? A. 1906, I was there.

Q. And when were you there for the first time? A. Oh, for a short stay in 1903 and in 1906 I was there for a couple of months.

Q. What was your particular purpose, if I may ask, in going to Switzerland in 1903? A. To see friends.

Q. Was Nicolai Lenine one of them? A. Yes, he was one of them.

Q. And what was your purpose in seeing Lenine at that time in Switzerland? A. To discuss the situation.

Q. Which situation? A. The Russian revolutionary situation.

Q. And as a result of your discussion with Lenine, what did you do? A. Well, I continued to do my usual business.

Q. Just what? A. I can not quite follow your question, Mr. Berger.

Q. Well, you say you continued to do your usual business, now I ask you what that was. A. I had to earn my living.

Q. Well, we all like to do that and we all do that, but in what particular way did you earn your living? A. I was an engineer connected with a large German firm in Hamburg.

Q. And did you go to see Lenine in connection with your being an engineer for a large firm in Hamburg? A. Certainly not.

Q. Well then, as a result of your seeing Lenine in Switzerland at that time, will you tell us specifically what you did and where you did it? A. The question is too broad and general for me to answer, Mr. Berger.

Q. Well, I will try to separate it. You saw Lenine in 1903 in Switzerland? A. Yes.

Q. You went there for a specific purpose? A. Yes.

Q. What was that specific purpose? A. To discuss the situation in the Russian Social Democratic party. They had split up into Mensheviks and Bolsheviks and there were a thousand and one questions to discuss.

Q. Which particular group of that party were you allied with? A. The Bolsheviks.

Q. And you thereafter did something as a result of your interview with Lenine, didn't you? A. Not specifically, unless I corresponded —

Q. Well, what did you do in general? A. Again, I was interested in the Russian movement, and I was always connected with it.

Q. You were a member of the Central Revolutionary Committee at that time? A. No, I was not.

Q. You were subsequent to that time? A. Yes.

Q. In what year? A. Excuse me. I was never in the Central Committee, but I was closely connected.

Q. You were one of the prime movers? A. No, I would not call it so.

Q. Well, how deep was your interest in the movement? A. How deep? Well, gentlemen, the Russian revolution was my life, I can tell you.

Q. Now, you went to Switzerland in 1905 again? A. In 1906.

Q. And what was your purpose in going to Switzerland in 1906? A. Well, I wanted to take a rest, and I stayed about a couple of months.

Q. Did you see Lenine at that time? A. No, not at that time. I saw Plekhanov.

Q. Who was Plekhanov? A. A leader of the Mensheviks.

Q. Would you say that the propaganda you were engaged in during the years you have mentioned was of a provocative kind? A. What do you call a provocative kind?

Q. Well, that word has a pretty well accepted meaning. A. No.

Q. Well, of a kind to stir up strife, discontent and possible bloodshed? A. Well, my propaganda was — now, gentlemen, the Russian revolution is not a thing of the past couple of years, the revolution dates back 50 years, and many of the best Russian men were in it and ended their lives in Siberia, so the revolutionary propaganda of ours would be of no provocative character, because the Czar's government provoked the revolution and we had only to defend ourselves and our liberty as a people.

Q. Did your propaganda attack the bourgeoisie as well as the aristocracy? A. We were interested in propaganda among the working class.

Q. Will you answer the question as I have put it? A. Oh, yes.

Q. And your propaganda has consistently from the time that you were first engaged in it until the very present time been directed against the bourgeoisie, as well as the aristocracy? A. It was a class conscious propaganda.

Q. And with which particular class exclusively did you represent and ally yourself? A. The working class and the peasants.

Q. And that was naturally directed also against the bourgeoisie, the petty shopkeeper and tradesman? A. No, I should not say so, the capitalist class.

Q. Well, just what do you mean by the capitalist class? A. The capitalist class is the class which is living on the producing labor of other people.

The Chairman.—How far down do you go in your classification of capitalists? Where would you stop and where would you begin?

The Witness.—Well, that is rather a metaphysical question, Mr. Chairman, I could not make exactly a definition of where the capitalist starts and the workingman finishes?

The Chairman.—According to your conception who would be a capitalist?

The Witness.—Well, here in this country it would be J. P. Morgan, he would be a capitalist; some profiteer would be a capitalist.

The Chairman.—Well, would you term a man who owned real estate a capitalist, who got an income from real estate?

The Witness.—Oh, well, in some occasions, yes.

The Chairman.—Suppose a man owned his own house, lived in the house himself, or on the premises, and had a tenant?

The Witness.—It does not make him a capitalist.

The Chairman.—Well now, who would you call a capitalist?

The Witness.—A man who is living on the producing labor not his own.

The Chairman.— Well, how are you going to pick out that man? How are you going to tell?

The Witness.— Well, a man who has a thousand men working for him and is employing them and living on the labor of those men, he is a capitalist.

By Mr. Berger:

Q. Suppose he has ten men employed? A. The same thing.

Q. Suppose he has two men in his employ, would he be a capitalist? A. Not at all.

Q. Well, do you draw the line at ten? A. I draw no line at all. Sometimes he might have one hundred workingmen employed and still not be a capitalist.

The Chairman.— Suppose you take a horseshoer who has one or two men working for him in a shop, would you call him a capitalist?

The Witness.— Probably I would.

The Chairman.— So that your system would class all as capitalists from the person who has two or three men in his employ upward? Is that your conception?

The Witness.— No, Mr. Chairman. When do you call a man a bald man? How many hairs does he have to have on his head to be called a bald man?

By Mr. Berger:

Q. After you left Switzerland the second time, where did you go? A. I went to England.

Q. What particular city in England? A. London.

Q. When was that? A. 1906.

Q. Did you have a passport? A. No, I had no particular passport.

Q. When you say you had no "particular passport," what do you mean — did you have any passport? A. No, I want to say according to the laws of England no passports were required.

Q. Where did you go from England? A. I stayed in England until 1916.

Q. And where did you go from there? A. To New York.

Q. To New York? A. Yes, sir.

Q. Didn't you go back to Germany? A. No, I did not.

Q. Had you been in New York before that? A. Yes, I was.

Q. When? A. For a short period in 1906, I think. It was the time before I went to England.

Q. During what years were you in England? A. From 1906 — until 1906."

Q. Now you were there following the outbreak of the great war? A. Yes, sir.

Q. And how did you register in England; as a subject or citizen of what nation? A. Of Germany.

Q. And you were truthful in so registering, weren't you? A. Yes, sir.

Q. Then you were as a matter of fact in 1916 a German subject, weren't you? A. Technically, yes, I was.

Q. Were you or weren't you? A. Yes, I was.

Q. You then came to this country? A. Yes.

Q. In what month in 1916? A. I think it was January, 1916.

Q. In January of 1916? A. Yes.

Q. And did you not execute and sign a customs declaration? A. Yes, sir, I did.

Q. When you entered this country? A. Yes.

Q. In January, 1916? A. Yes.

Q. What citizenship did you claim at that time? A. German citizenship — I was forced to claim it.

Q. What do you mean, you were forced to claim German citizenship? Who in this country forced you to claim that? A. Nobody forced me, but I came with papers that forced me to say I was a German citizen technically.

Q. Were those papers genuine or did they set forth the fact? A. Certainly, I had to come with permission of the British government to the United States.

Q. Then as a matter of fact you were not forced in this country to claim German citizenship? A. No, I could not claim that if my papers said that.

Q. Were your papers correct or incorrect? A. Absolutely incorrect,— and permit me to explain.

Q. You made the statement when you came to this country that you claimed German citizenship? A. Yes, sir.

Q. Now, you tell us you arrived with valid, truthful papers which set forth the fact that you were of German citizenship? A. Permit me to explain.

Q. Explain it. A. When I was registering in England I claimed to be a Russian citizen.

Q. Didn't you tell us a minute ago you claimed to be a German citizen? A. I didn't claim it, I claimed to be a Russian citizen, but the British authorities registered me as a German citizen because I could not produce sufficient papers. That is the reason I was so registered in England and that is the reason I received certain papers to America, where I had to claim to be a German citizen.

Q. What was the name of the person in England to whom you claimed to be a German citizen and not a Russian citizen? A. With all the persons which which I had to deal.

Q. At all events, the British authorities were not satisfied with your claims? A. They were not satisfied with my papers but were satisfied with my claims.

Q. Didn't you have a German military passport? A. I didn't have any.

Q. Why didn't they put you down as a citizen of Brazil? A. Because they asked where my father came from and I told them from Germany.

Q. And you told them you had served in the German army? A. Yes, I told them.

Q. And the authorities felt satisfied you should be classed as a German citizen? A. No, the authorities felt satisfied to put down a Russian, but only technically a German citizen.

Q. Then when you came to this country you continued setting forth the fact that you were a German citizen, didn't you? A. I never had occasion to claim it.

Q. What statement did you make on your custom house declaration when you entered this country? A. The usual declaration.

Q. That you were a citizen of what country? A. Germany.

Q. Did you register as an alien enemy when you entered this country? A. No, sir.

Q. Or at any time when you were in this country? A. No, sir.

Q. At any time while this country was at war with Germany? A. No, sir.

Q. In spite of the fact you entered as a German citizen? A. In spite of the fact that I entered as a German citizen.

Q. What citizenship do you now claim? A. Russian citizenship.

Q. How did you acquire Russian citizenship? A. I applied for Russian citizenship papers since the outbreak of the Russian revolution.

Q. When? A. In March, 1917.

Q. You have not left this country since you last came here? A. No, I did not leave.

Q. When did you receive notice of your having become a Russian citizen, Mr. Martens? A. I think May, 1917, or maybe June, 1917.

Q. What sort of notice did you get? A. That my request is granted and I was made officially a Russian citizen.

Q. Was that an official notice? A. No, from my friends.

Q. It came from your aunt or your sister? A. My sister.

Q. Now, what prerequisite does the Russian Soviet government require to the attainment of citizenship on the part of a person who is not in Russia at the time the claim is made? A. I could not tell you, gentlemen, what was required, because I am not versed in those matters. The only thing I could tell you is when I was a boy of about seventeen years I applied for Russian citizen papers from the Russian government and General von Wahl refused to grant me citizenship papers because he wanted me first to serve in the German army and then to become a Russian citizen, so I was refused in 1917 on account of not having served in the German army. Second, my request was, as I told you, after the outbreak of the Russian revolution, and I really don't know what kind of laws, I don't suppose any specific laws were in existence,—anyhow, I don't know.

Q. Is there anything to prevent any resident of this country at this time from acquiring Russian citizenship in the same way that you acquired it? A. Nothing, only that he be an honest man.

Q. So that any person living in the United States who is admittedly an honest man can become a citizen of Soviet Russia by simply proving that he is an honest man? A. Yes, sir.

Q. There is no requirement that it be made public in this country, is there? A. I beg pardon.

Q. There is no requirement imposed by the Bolshevik government that that person make that fact known to this country? A. No.

Q. Have you any idea how many individuals in the United States at the present time have acquired citizenship in the Soviet Republic in a similar manner? A. Nobody.

Q. There is nothing to prevent their doing that? A. There is nothing to prevent their doing that.

Assemblyman McElligott.— Would they have to consult you as authority for that application to be made?

The Witness.— No, Mr. Chairman, I have nothing to do with the making of citizens in Russia. It is not my business. They have to apply to the central authorities.

Mr. Berger.— I feel it necessary to emphasize at this point that this plan of changing citizenship which is called to our attention by the witness at this time, and which was admitted by him, if it be put into effect generally and recognized by international law, would enable the foreign element to surrender their citizenship to this country without any declaration; so it would be impossible for us at any time in this country to know who is an American citizen or who is a citizen of the Soviet Republic of Russia.

Mr. Martens.— Mr. Berger, permit me to make a few remarks. Mr. Berger is a lawyer, and he probably knows, that according to American law, if a man leaves a country and stays in a country more than five years, he loses his citizenship, without making any declaration to that effect; is it not so?

The Chairman.— Yes.

The Witness.— This fact about citizenship has nothing to do with any propaganda, or any facilitating of propaganda, as Mr. Berger wants to make you believe.

The Chairman.— Mr. Berger, you claim the procuring of citizenship in this peculiar way, and that is why it occurs to you that there might be a general method of acquiring citizenship with a residence here?

Mr. Berger.— The point I desire to emphasize is this: The witness has testified if a man is admittedly honest, and expresses a desire and an intention of becoming a citizen of Soviet Russia, his mere declaration or sayso is sufficient.

The Chairman.— Must not that be conveyed to the government in some way? Must not that be explained to the other government?

Mr. Berger.— Did you suppose it was explained on the part of this government? But our country knows nothing about it; and on that theory we could not know how many individuals in this

country who claim American citizenship; either by birth or naturalization, may at the same time be citizens of Soviet Russia. That is the point I want to emphasize.

Assemblyman Pellet.—And the man would not have to go to Russia to become a citizen?

Mr. Berger.—That is correct. He could live here and claim protection of the American citizenship, and at the same time be a citizen of Russia under that method.

The Witness.—It is not true, Mr. Berger.

Mr. Berger.—Mr. Stevenson at this point would like to ask a few questions of Mr. Martens.

By Mr. Stevenson:

Q. Mr. Martens, you are a member of the Russian Communist Party, are you not? A. Yes, sir.

Q. And that party is the party which is now in control of the government of Soviet Russia, is it not? A. Yes, sir.

Q. And Mr. Nicholas Lenine is the premier, is he not? A. Yes, sir.

Q. And Mr. Leon Trotzky is the Minister of War? A. Yes, sir.

Q. That is the Communist Party has issued a call for what is known as the Third International, is it not? A. Yes, sir.

Q. And that call was made in the form of a manifesto, was it not? A. Yes, sir.

Q. And it was signed by Charles Rakovsky, Nicholas Lenine — A. Yes, sir.

Q. B. Zinoviev, Leon Trotzky, Fritz Platten? A. Yes, sir.

Mr. Stevenson.—Mr. Chairman, I wish to read from a translation of this manifesto which was published on May 10, 1919, the issue of "The Revolutionary Age," in Boston.

The Chairman.—All right, proceed. Is that a translation in English?

Mr. Stevenson.—Yes, sir.

The Chairman.—What is the original?

Mr. Stevenson.—Russian.

By Mr. Stevenson:

Q. That is in Russian, isn't it? A. Yes, sir.

Mr. Stevenson.—(Reading)—“To the proletariat of all countries!

“Seventy-two years have gone by since the Communist Party of the World proclaimed its program in the form of the Manifesto written by the greatest teachers of the proletarian revolution, Karl Marx and Frederick Engels. Even at that early time,”—and then it goes on to say: “For a long span of years Socialism predicted the inevitableness of the imperialistic war; it perceived the essential cause of this war in the insatiable greed of the possessing classes in both camps of capitalist nations.”

And, further on, it says: “And the German Socialist patriots, who in August 1914 proclaimed the diplomatic White Book of the Hohenzollern as the holiest gospel of the people, today, in vulgar sycophancy, join with the Socialists of the Entente countries in accusing as arch-criminals the deposed German monarchy which they formerly served as slaves. In this way they hope to erase the memory of their own guilt and to gain the good will of the visitors. But alongside the dethroned dynasties of the Romanoffs, Hohenzollerns and Hapsburgs, and the capitalistic cliques of these lands, the rulers of France, England, Italy and the United States stand revealed in the light of unfolding events and diplomatic disclosures in their immeasurable vileness.”

And then it proceeds further in describing the duties and requirements of the Communist; it says:

“Civil war if *forced upon* the laboring classes by their arch-enemies. The working class must answer blow for blow, if it will not renounce its own object and its own future which is at the same time the future of all humanity.”

“The Communist parties, far from conjuring up civil war artificially, rather strive to shorten its duration as much as possible—in case it has become an iron necessity—to minimize the number of victims, and above all to secure victory for the proletariat. This makes necessary the disarming of the bourgeoisie at the proper time, the arming of the laborer, and the formation of a communist army as the protector of the rule of the proletariat and the inviolability of the social structure.”

The Chairman.—What is the date of that publication?

Mr. Stevenson.—May 10, 1919.

**The Chairman.**—Is that published in the City of New York?

**Mr. Stevenson.**—No, sir. It is published in Boston. It has been published at New York City at other times.

I wish to offer those quotations in evidence.

**The Chairman.**—They are received.

(Received in evidence and marked Exhibit 305 of this date.)

By **Mr. Stevenson**:

**Q.** This manifesto was issued as an appeal to all Communist groups in other countries, was it not? **A.** Yes, sir.

**Q.** Nicholas Lenine has addressed a communication to the American workingmen, has he not? **A.** Yes, as far as I know.

**Mr. Stevenson.**—**Mr. Chairman**, I wish to offer in evidence certain parts of "A letter to American Workingmen," which is issued by Nicholas Lenine from Moscow August 20, 1918, and I wish to read parts, as follows:

"A Russian Bolshevik who participated in the Revolution of 1905 and for many years afterwards lived in your country has offered to transmit this letter to you. I have grasped this opportunity joyfully for the revolutionary proletariat of America—in so far as it is the enemy of American imperialism—is destined to perform an important task at this time.

The letter goes on to say:

"Political activity is not as smooth as the pavement of the Nevski Prospect. He is no revolutionist who would have the revolution of the proletariat only under the 'condition' that it proceed smoothly and in an orderly manner, that guarantees against defeat be given beforehand, that the revolution go forward along the broad, free, straight, path to victory, that there shall not be here and there the heaviest sacrifices, that we shall not have to lie in wait in besieged fortresses, shall not have to climb up along the narrowest path, the most impassable, winding, dangerous mountain roads."

And, further on it says:

"In words our accusers 'recognize' this kind of class struggle, in deeds they revert again and again to the middle-class Utopia of 'Class-harmony' and the mutual 'interdependence' of classes upon one another. In reality the class

struggle in revolutionary times has always inevitably taken on the form of civil war, and civil war is unthinkable without the worst kind of destruction, without terror and limitations of form of democracy in the interests of the war. One must be a sickly sentimentalist not to be able to see, to understand and appreciate this necessity."

And, further on:

"Its servants charge us with the use of terroristic methods.—Have the English forgotten their 1649, the French their 1793? Terror was just and justified when it was employed by the bourgeoisie for its own purposes against feudal domination. But terror becomes criminal when workingmen and poverty stricken peasants dare to use it against the bourgeoisie. Terror was just and justified when it was used to put one exploiting minority in the place of another. But terror becomes horrible and criminal when it is used to abolish all exploiting minorities, when it is employed in the cause of the actual majority, in the cause of the proletariat and the semi-proletariat, of the working-class and the poor peasantry."

By Mr. Stevenson.—

Q. Mr. Martens, if I understand this portion of Lenine's letter correctly, it is a statement that terror has been employed by the Soviet government? A. Yes, it has been.

Q. As a matter of fact, Mr. Martens, have not a considerable number of commissars at one time or another been executed in Soviet Russia? A. Yes, sir.

Q. I believe at one time you named to me the number? A. I think about 1500 of them.

Q. About 1500 commissars were executed? A. Yes, sir.

Q. This publication of which a large number of reprints were found among documents recently taken in the raid on the headquarters of the Communist party in this city made a week ago last Saturday night.

Mr. Martens (interposing).—Mr. Chairman, permit me a question?

Mr. Stevenson.—Just a moment.

The Chairman.—We will give you an opportunity to say all you desire.

Q. Mr. Martens, as a matter of fact the Russian Soviet Republic is based upon the principles of the Communist Party of Russia, is it not? A. Yes, sir.

Q. Isn't it one of the principles of the Communist Party that the workers of the world should unite? A. Yes, sir.

Q. And that they should unite to overthrow capitalistic system the world over? A. Yes, sir.

Q. Isn't it the principle of the Russian Soviet Government that the capitalist governments of other countries should be overthrown; answer yes or no. A. I cannot answer yes or no.

Q. You have done it for me once before? A. Yes, but you put the question in different ways.

Q. Well, supposing I put it precisely the same way —

Mr. Stevenson.— I offer the book I was reading from in evidence.

The Chairman.— It will be received.

(Received and marked Exhibit 306 in evidence of this date.)

Q. The question is this: "Isn't it a fact that in overthrowing the capitalist system (referring to the Soviet Government) they wish and state they wish the overthrow of the capitalist government?" Answer my question, please. A. Do they wish the overthrow of capitalist government, or do they not wish to, is that the question?

Q. Yes, sir. A. That is their wish. Their wish is to change from the capitalist system to the socialist system.

The Chairman.— How do they expect this change to come about?

The Witness.— Well, the change may come in many ways, Mr. Chairman; the change may come on purely pacific ways, and it may come as a result of a bitter struggle. Many ways are possible.

Q. Mr. Martens —

The Chairman.— Just a minute. But they are willing to accept any way so long as it is done; so long as they obtain the result they do not mind which way that happens?

The Witness.— They do not care how it is done.

The Chairman.— Whether it is done by terror or diplomacy?

The Witness.— It is a matter of the working class.

The Chairman.— It is a matter for themselves to settle.

The Witness.— It is a matter for themselves to settle.

By Mr. Stevenson:

Q. I ask this question again: Isn't it a matter wherever the Soviet Government issues propaganda advising the propriety of overthrowing of capitalist governments of other countries? A. They are issuing propaganda as a defense.

Q. I am asking you this question: Isn't it a fact that the Soviet Government issues propaganda advising the propriety of overthrowing the capitalist governments in other countries? A. No, it is not a fact. I deny it.

Q. In answer to that question before you said it does. A. It does in a specific way as a means of defense against attacking.

Q. But it does, does it not? A. Yes, as a means of defense.

Mr. Berger.— Would you call Lenin's letter to the American workingmen a matter of defense, a matter of affirmative defense?

The Witness.— As a matter of defense to a certain extent.

Mr. Berger.— Is it a matter of propaganda?

The Witness.— Yes, sir.

Mr. Berger.— Then it is affirmative propaganda, is it not?

The Witness.— Yes.

Mr. Berger.— I suggest that we take an adjournment. There are certain reasons why we want an adjournment at this time.

The Chairman.— What time do you suggest for the next meeting of the Committee?

Mr. Berger.— A week from to-morrow at 10:30 a. m. At that time Attorney-General Newton will be down here personally, and I suggest that date, if it is agreeable to the Committee.

The Chairman.— The Committee is satisfied to grant that adjournment until that date and that time.

Mr. Stevenson.— Will you direct the witness to return?

The Chairman.— Mr. Martens, will you appear here before this Committee at this place at a week from to-morrow at 10:30 o'clock, to continue this examination?

The Witness.— Yes, sir.

Whereupon, at 3:15 o'clock p. m., the Committee recessed to meet on Tuesday, November 25, 1919, at 10:30 o'clock a. m.

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONARY ACTIVITIES**

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CITY HALL, NEW YORK,  
November 25, 1919, 10.30 A. M.

*Present:*

Senator Walters,  
Senator Mullan,  
Assemblyman Martin (Vice-Chairman),  
Assemblyman Pellet,  
Assemblyman Jenks,  
Assemblyman McElligott,  
Senator Boylan,  
Assemblyman Burr.

*Appearances:*

Hon. Charles D. Newton, Attorney-General,  
Hon. Samuel A. Berger, Deputy Attorney-General,  
Archibald E. Stevenson, Esq., Associate Counsel.  
Mr. Charles A. Hotelling, Sergeant-at-Arms.

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The Vice-Chairman (Assemblyman Martin).— The meeting will come to order, please. At the request of some of the members of the Committee they desire to take ten minutes' time for consultation in another room in regard to some matters.

(At 11.20 A. M., the Committee returned to the Council Chamber).

The Chairman.— The Committee will come to order. I assume you were to go on with some examination, General Newton?

The Attorney-General.— Yes, Mr. Chairman, Mr. Martens.

(Mr. Ludwig C. A. K. Martens takes the witness stand.)

The Attorney-General.— Mr. Martens, I understand you have been previously sworn?

The Witness.— Yes, sir. Before we proceed, will you let me make some changes, some corrections in the minutes?

The Chairman.— Very well. Do you desire to read your corrections into the minutes? There is no objection to that, is there, General?

The Attorney-General.— No, I have no objection to that.

Assemblyman McElligott.— Is that a stenographic copy of the minutes?

The Witness.— Yes, I wish to correct.

Assemblyman McElligott.— From your memory or from some notes taken at the time?

The Witness.— No, I have an official copy of the minutes.

The Attorney-General.— He has an official copy of the minutes here.

Deputy Attorney-General Berger.— I furnished a copy of the minutes to Mr. Martens' attorney.

The Chairman.— You may proceed, if you desire to read your corrections, as I understand it, in the minutes. Is there objection to that, General?

The Attorney-General.— I have no objection.

The Witness.— (Reading):

“ Although ostensibly I have been called before your Committee as a witness, yet in effect the statements given out to the press by the Attorney-General's office make it appear that the object of my examination is to obtain evidence in order to proceed against me. Still I have been denied the privilege of counsel —”

The Chairman.— That is a statement, isn't it?

The Attorney-General.— That is a sermon you are preaching now, that is not a correction.

Mr. Martens.— Yes, I will get to it in a minute.

The Chairman.— I thought possibly you could make that statement at the end.

The Attorney-General.— Well, let him do it in his own way first.

The Witness.—(Resuming reading):

"With the result that the examination has been one-sided and the testimony given by me, through its incompleteness is open to misrepresentation. I therefore desire to make the following statement, in order to correct actual errors and the gaps in the record.

"1. The record of my testimony on pages 1071-1072 contains the following questions and answers:

"Q. Did you register as an alien enemy when you entered this country? A. No, sir.

"Q. Or at any time when you were in this country? A. No, sir.

"Q. At any time while this country was at war with Germany? A. No, sir.

"Q. In spite of the fact you entered as a German citizen? A. In spite of the fact that I entered as a German citizen.

"Q. What citizenship do you now claim? A. Russian citizenship.

"Q. How did you acquire Russian citizenship? A. I applied for Russian citizenship papers since the outbreak of the Russian Revolution.

"Q. When? A. In March, 1917.

"Q. You have not left this country since you last came here? A. No, I did not leave.

"Q. When did you receive notice of your having become a Russian citizen, Mr. Martens? A. I think May, 1917, or maybe June, 1917.

"This testimony is followed by an effort to assail the regularity of my Russian citizenship. The examination conducted by Deputy Attorney-General and associate counsel to the Committee, however, has failed to bring out all the facts relating to my Russian citizenship, and it is a well-known rule that anything short of the *whole truth* may in effect amount to an untruth. My testimony shows that I was born and educated in Russia; that in 1899 by reason of my affiliation with the revolutionary movement, I was deported by the Czar's government to Germany; that I continued my affiliation with the Russian revolutionary movement up to the revolution which began with the abdication of the Czar to the establishment of the Provisional Government on March 16, 1917. This Provisional Government was officially recog-

nized by the government of the United States and the State of New York.

"One of the first acts of the Provisional Government was a proclamation of amnesty for all political offenders which was made three days after the abdication of the Czar, to wit, on March 19, 1917. The Provisional Government followed that act by an invitation to all Russian political refugees to return to Russia at government expense. Under the terms of the amnesty I was entitled to return to Russia. Owing to the fact, however, that, although born and bred in Russia, I was technically a German subject, and that Russia was then at war with Germany, I could not avail myself of the benefit of the amnesty proclamation without a special act of the Provisional Government. I therefore immediately applied for admission to Russian citizenship, and my application was granted by the Provisional Government of Prince Lvov in May or June, 1917. By this act of the Provisional Government, I thus became a Russian citizen.

"I desire to emphasize the fact that my naturalization as a Russian citizen was granted by an act of the government which was recognized by the government of the United States.

"The general rules and regulations prescribed by the Attorney-General of the United States for the registration of German alien enemies, were issued on December 31, 1917, pursuant to the proclamation of the President of the United States, dated November 16, 1917. At that time I was already a Russian citizen and was therefore not subject to registration under those Rules and Regulations."

The second correction —

Assemblyman McElligott.— How is that a correction of the record? That is an apology, isn't it?

The Attorney-General.— Well, allow him to continue.

Assemblyman McElligott.— I fail to see that it is a correction. We are willing to give him an opportunity to speak, but I don't see how you can attack the record at that point.

The Attorney-General.— Well, I will try to find out what he means, if we will have a little patience.

The Witness.—The second correction, on page 1057 of the minutes, the following questions and answers appear:

“Q. Where was Lenine at that time? A. In Brooklyn.”

This is an error of the stenographer. I never made such a statement. The answer should be “In Switzerland.”

The Attorney-General.—“Brooklyn” should be changed to “Switzerland.”

The Witness.—Yes, sir.

The Attorney-General.—Probably the Brooklyn people did not like that.

The Witness.—Maybe not; I don't know. Pages 1072 and 1073 the following statement appears:

“The only thing I could tell you is that when I was a boy of about 17 years I applied for Russian citizen papers from the Russian Government and General Von Wahl refused to grant me citizenship papers because he wanted me first to serve in the German army and then to become a Russian citizen, so I was refused in 1917 on account of not having served in the German Army.”

“The year 1917 is obviously erroneous and in contradiction to the preceding part of the same sentence, wherein I stated that at the time I first applied for Russian Citizenship ‘I was a boy of about 17 years.’ It is obvious that in the year 1917 I was no longer a boy of 17. I don't recall now what words I may have used, but it is obvious that the words ‘in 1917’ are an error of the stenographer.

“Very respectfully,”

Acting Chairman Martin.—Does the General desire to take that memorandum of his?

Attorney-General Newton.—If I want it, I will ask him for it.

By the Attorney-General:

Q. Now, Mr. Martens, the actual correction of the minutes consists in striking out the word “Brooklyn,” on page 1057, and inserting “Switzerland.” That is all the correction on that page?  
A. Yes. The next correction was on pages 1072–73.

Q. I will get to that later. That was the only correction on that page? A. Yes, sir.

Q. Now, the other page where you claim the minutes should be corrected is on page 1072? A. And 3.

Q. 1073? A. Yes.

Q. Now, what is it you claim is the matter with page 1072; what correction do you make there? A. I did not say that I was refused in 1917 on account of not having served in the Germany army. It evidently is a mistake.

Q. That is on page 1073? A. Yes.

Q. Is there any statement on page 1072 that you did not make when you were being sworn and on the witness stand? A. The sentence beginning on page 1072 — it begins on page 1072 and finishes at page 1073.

Q. That starts with: "The only thing I can tell you is when I was a boy"—? A. Yes.

Q. And ends where? A. And ends "I was refused in 1917 on account of not having served in the German army."

Q. It ends with the words "German Army?" A. Yes.

Q. Now, what do you say you said, intended to say? A. The year 1917 is erroneous and in contradiction to the preceding part of the same sentence, wherein I stated that at the time I first applied for Russian citizenship I was a boy of about 17 years.

Q. Now, how old were you when you first applied for Russian citizenship? A. 17 years.

Q. So that part is correct? A. Yes, but it was not in 1917.

Q. Because you were more than 17 in 1917? A. Yes, sir.

Q. Well, otherwise the stenographer reported you correctly? A. Yes.

Q. Now, you have read from a paper some statements in addition to the corrections of the minutes this morning, have you not? A. Yes.

Q. Who prepared that paper? A. I myself.

Q. With the assistance of anybody? A. Yes, I consulted my lawyers.

Q. This was got up by you for a purpose with the assistance of your counsel? A. Yes.

Q. It is not very material, but I see from the public press that you have started some action against some of the newspapers here for libel, or something of that sort? A. Yes, sir.

Q. And was it the same counsel who started those actions, who prepared this explanation? A. Well, all my counsel prepared this.

Q. How many have you? A. I have three.

Q. I wanted to see how sorry I ought to be for you. A. I have three.

Q. And they were all together when this statement you have read this morning to the Committee was prepared? A. Yes.

Q. And which was intended as a correction of the minutes so far as you have pointed out, and some explanation of your position? A. Yes, a correction of the impression given.

Q. A correction of what you thought might be an impression gained by the reading of the testimony as published? A. Yes.

Q. Well now, you were asked — which you have read as one of the minutes on page 1072 — “When did you receive notice of your having become a Russian citizen?” “A. I think maybe May, 1917, or may be June, 1917.” That is correct? A. Yes, that is correct.

Q. How did you receive that notice? A. As I explained last time, from my relatives in Russia.

Q. Well, I know, but how, by letter or how? A. By letter, yes.

Q. Do you remember what one of your relatives advised you that you have been admitted to citizenship in the Russian Soviet Government? A. Not Soviet Government, but Provisional Government.

Q. Provisional Government? A. Yes.

Q. Well, that is the Government of Lenine and Trotzky? A. No, the government of Prince Luvoff.

Q. Do you recall just what one of your relatives advised you that you had been thus admitted to citizenship there? A. I was advised that I was a subject of the armistice —

Q. My question is if you recall that one of your relatives gave you that information? A. I do not understand the question.

Q. You say you got the information from a relative? A. Yes.

Q. Now, who? What one? A. What one? My sister.

Q. And was that contained in a letter? A. In a letter, yes.

Q. Have you that letter? A. Not by me, but I have it, yes.

Q. Can you produce it? A. Yes, I can.

Q. And will you produce it? A. Yes, certainly.

Q. Now, you seem to be uncertain as to what month? A. Yes.

Q. I take it, then, that you have never received any official information on the subject? A. Well, you see how it comes —

Q. Now, you know what I mean by “official information,” do you not? A. Yes, sir; I received official information.

Q. Well now, whom did you receive that official information from? A. I received it already during the Soviet government regime.

Q. Whom did you receive it from? A. From the present Soviet government.

Q. And in what form? A. In the form of a document stating that I am a Russian citizen.

Q. And where is that paper? A. That is here.

Q. That you can produce? A. Yes.

Q. Well, that fixed the month, did it not? A. Yes, it does.

Q. So that you can fix the time to a certainty? A. Exactly, yes.

Q. And can you produce that paper? A. Yes, sir, I will.

Q. Now, going back to the explanation which you read, which you say was prepared by your counsel who was interested in your libel suit, was this so-called explanation intended to in any way affect these actions that are pending? A. No, not at all.

Q. Merely because you or they thought there might be some misunderstanding about the effect of your testimony? A. No, not at all. You see, my libel actions are based upon the statements of several newspapers that I admitted, during the last hearing, that I am here in this country to support the American revolution, which I deny most emphatically, and I deny it at the present moment, too. This libel action is based exclusively on those statements in those newspapers.

Q. You think, then, I take it, that a man who would come to this country for the purpose of overthrowing this government would be committing a wrong? A. Certainly; that is exactly my position.

Q. And if he was charged with being interested in any such scheme, when it was not true, you think that he would be entitled to some damages to his reputation and standing in the community? A. Absolutely, yes.

Q. No matter what his beliefs were in relation to the form of our government? A. Yes.

Assemblyman McElligott.—Were those statements which were made by the newspapers deductions from your testimony, or were they given as a quotation from your testimony? A. The deductions which were made in that paper, and by some other people who made the deductions, are simply products of an unbalanced mind.

Q. Well, did the newspapers misquote you in any way? Was there something said in the newspapers which you did not say here at this meeting? A. Certainly; it was said that I am here for the purpose of overthrowing this government.

Q. Well, did the newspapers assume to quote you in that respect, or was it an inference from what you had said? A. It was simply a statement.

Q. Well, you do not contend that the newspapers misquoted you? A. Absolutely they misquoted me, my intentions and my words.

Q. In spite of that, the only correction you make to the record in regard to one or two very important things — A. Those newspapers did not contain my statements which are in the record.

Mr. Stevenson.— You stand by your statements in the record, do you not?

The Witness.— Certainly.

By the Attorney-General:

Q. Mr. Martens, I want to ask you a few questions as to your knowledge of the Russian bonds that were in force at the time of the formation of the Provisional government — and I mean by that identifying it with the reign of Lenine and Trotzky? A. Russian what?

Q. Bonds. A. Yes.

Q. Do you know how many bonds were issued by the former governments, or how many are outstanding against Russia? A. You mean foreign bonds?

Q. Yes, such bonds as were sold largely in the United States, do you not? A. Yes. I know only of two bond issues; one was made by the Imperial Russian government, \$50,000,000, and another one was made by the Provisional government, as far I remember it — also fifty.

Q. So there were \$100,000,000 in those bonds in force at the time of the formation of the Soviet government? A. Yes.

Q. And you know as a fact that those bonds were sold quite extensively in the United States? A. Yes.

Q. Now, what action, if any, did the Lenine and Trotzky government take in relation to those outstanding obligations? A. The Soviet government offered, on several occasions, to pay these bonds.

Q. Well, offered to pay them how? A. To negotiate about the method of payment and to pay them.

Q. Is it not a fact that they repudiated every financial obligation of the former government? A. No, it is not true.

Q. It is not? A. No.

Q. That you know of your own knowledge? A. Yes. If you will permit me, I will tell you more about it.

Q. Well, then, I will let you tell what you know about it, of course. A. Well, the former obligations of the Imperial government were repudiated by the Congress of Soviets, and the government of Soviet Russia was given the power to repudiate them at any moment officially. This power was never used by the Soviet government. The Soviet government offered, on many occasions, to come to an understanding with the Soviet Congress in regard to the payment of the bonds.

Q. In what way and upon what terms? A. There are many terms possible — to pay the debts. The country is not in position at present, but they make methods so possible to adjust a settlement.

Q. But you mean by settlement to pay less than the face of them? A. No, to pay interest or to engage a concern of bankers to take over the debts or in any other way.

Q. What particular information have you which is reliable that the Soviet government has ever in any way admitted or been willing to pay interest or assume the financial obligation of these bonds, in any way? A. I have an official paper from the Soviet government telling me to offer to the American government and to some concerns interested in the question of debts the settlement, so I did.

Q. Have you that paper? A. Yes, I have it.

Q. Can you produce it? A. I could not produce the papers of the Soviet government without having the permission of the Soviet government.

Q. You have such paper? A. Yes.

Q. Have it in your possession? A. Yes.

Q. So that we may have no misunderstanding about the record, you decline to produce it? A. Yes, sir.

Q. What financial institution did you acquaint with the fact that you had such authority from the Soviet government? A. Well, I had informal discussions with some people who are connected with these financial institutions, but it did not come so far that it could be called official negotiations.

Q. Will you tell me who it was? A. Well, I tried to approach the National City Bank.

Q. National City Bank? A. Yes, sir.

Q. Whom did you see at the National City Bank in relation to the matter? A. I did not see any of the officials of the National City Bank, but I saw some people who were interested, who held connections with the bank.

Q. Tell me who they were. A. Well, I don't think I could tell you at the present moment before seeing the correspondence, but I will give you all information concerning it gladly after I look through the files.

Q. And would you be prepared to do that — to-morrow morning, you think? A. To-morrow morning.

Q. Now, the official notification from the government which advises you that you had been accepted as a citizen of the Russian Soviet government, how did you receive that paper? A. This particular paper I received by mail, if I remember right.

Q. Is there any way, by the examination of the paper itself, that you can refresh your recollection so that you can be positive about it? A. Well, I think I can be refreshed, yes.

Q. Among the various things that I am asking for, would that be too much to have you look up between now and to-morrow morning? A. No.

Q. Outside of the bank you have referred to, did you make any suggestion of your government to care for these outstanding obligations through other banking institutions? A. We are trying to organize here a concern, a company which would take care of all these matters.

Q. My inquiry, so that we won't get off the track, that's all, my inquiry is what other institution you attempted to communicate the desire of the Russian Government to pay the obligations of these bonds you have referred to? A. I did not refer to any particular banking institution. My idea was to organize several banking institutions and one big concern who could take care of some big financial transactions.

Q. Of course, the financial transactions, so far as these bonds are concerned, consisted of an obligation on the part of some Russian Government? A. Yes.

Q. And they had already had the money, some Russian Government had already had the money? A. Yes.

Q. And of course if they were ever paid they would have to be paid by Russia? A. Certainly.

Q. And there is no organization or combination of capital in this country which would help that in any way? A. Oh, yes, it could help in many ways. Now, you know, Mr. Newton, that every country in Europe is bankrupt now, the financial bankruptcy is all over Europe, not excluding England, Germany, France and also Russia, and to make some financial arrangements it is necessary to have the assistance of the bankers and it is my idea to get the assistance here in the United States of America.

Q. Of course, the obligation upon those bonds now is principally in the payment of the interest, isn't it? A. No, the bonds of 1919 are due now, I think they are due in June of this year.

Q. Were they short term bonds? A. Yes.

Q. There are some obligations of interest on these bonds which have been out and unpaid for some considerable period of time? A. Yes, sir. It is my idea to pay all these debts, if the political and economic negotiations will proceed in a satisfactory way.

Q. You are very certain that any information that I have that the Lenine and Trotzky government absolutely repudiated the financial obligations of their country on those bonds is not so? A. Not so, no.

Q. And you are positive as you can be from information which you have that they are desirous of making some arrangements to pay those old obligations? A. Yes.

Q. Notwithstanding their opposition as to capitalized government or anything else? A. Exactly.

By Senator Walters:

Q. General, may I ask him whether he is conscious of the fact that his statement may accelerate the purchase and sale of these bonds in this country at this time? A. What?

Q. I ask whether you are conscious of the fact that your statement might accelerate the sale and purchase of these bonds at this time? A. When I made the statement I didn't think about it.

Q. That carries with it that effect; now, are you in position to make such a statement to the public of this country that will create a confidence or accelerate the purchase and sale of these bonds? A. I can make a statement to the American public that the Soviet Government is ready at any moment to negotiate the

payment of all foreign debts including the debts which were floated here in the United States.

Q. Have you an official communication to that effect? A. Yes, sir.

Q. Would you mind furnishing the Committee with that, with a copy of that official communication? A. Yes, sir; certainly.

Q. Upon what action of the Soviet Government is that founded? A. It is founded on direct communications I received from the Soviet Government and also from several offers made to allied governments —

Q. You misunderstand my question; who is the responsible Soviet, or what is the responsible Soviet Government? A. It is a national executive committee of the Soviets.

Q. There exists no longer a representative body or what we term in this country a legislative body? A. Yes, certainly it exists. The legislative body of Russia is a Congress of Soviets.

Q. Is that Congress the responsible government or is the executive committee the responsible government? A. The Congress is the responsible government.

Senator Walters.— Then I ask you whether the formal communication which you have is founded upon the action of the formal government of Soviet Russia?

The Witness.— Yes, sir.

Senator Walters.— I beg your pardon, General, for interrupting the examination.

Mr. Stevenson.— Mr. Martens, isn't it one of the principles of the Russian Communist party that the capitalist should be expropriated?

The Witness.— Well, gentlemen —

Mr. Stevenson.— Well, answer the question.

The Witness.— I cannot answer it yes or no, without giving more explanation.

Mr. Stevenson.— Well, isn't it a fact that the Communist principle is that the capitalist should be expropriated?

The Witness.— It is a principle of every Social party, not only the Communist, but every Social party to establish a Social government in every country which is based upon common property for all.

Mr. Stevenson.—Has not Lenine stated that one of your principal objects at the present time is the complete expropriation and suppression of the bourgeoisie and capitalism?

The Witness.—You are presenting the case too one-sided.

Mr. Stevenson.—I am asking you the question.

The Witness.—No, I deny it.

Senator Walters.—I would like to ask another question: It is one of the principles of the Soviet Socialistic government that there is a distinction between the proletariat and the capitalist?

The Witness.—Yes, sir; there is.

Senator Walters.—That there is no substantial, inherent right in property?

The Witness.—Yes.

Senator Walters.—That property virtually belongs to the community and that each shall share in the so-called property?

The Witness.—That is the Socialistic view.

Senator Walters.—Now, that is carried to the extent that no class shall accumulate as against another class?

The Witness.—Whether that is so or not, is that what you want to ask me?

Senator Walters.—Is it one of the fundamental principles that no class of persons shall accumulate property as against another class?

The Witness.—Yes, sir.

Senator Walters.—If that should happen in Soviet Russia the distinction between the property in the hands of the poor and the property in the hands of the rich would immediately be destroyed?

The Witness.—I should not say immediately.

Senator Walters.—But that is the principle, that it should be destroyed?

The Witness.—Yes.

Senator Walters.— If a class in Russia were to control a bond issue of Russia, the moment the bonds would come into the hands of the particular class of people, that would become capitalistic under your definition of the principle?

The Witness.— No, sir.

Senator Walters.— How do you then distinguish between those who accumulate and those who have not?

The Witness.— Permit me to make a little explanation.

Senator Walters.— Certainly.

The Witness.— Now, you see, you probably do not know that in Russia money as such is not confiscated by the Soviet Government. Every capitalist may have millions of money, he would not be touched. The only thing that would happen to him would be that he would not get interest for his money deposited in the banks.

Senator Walters.— You don't want his money to become productive?

The Witness.— Yes, we don't want his money to become for the exploitation of other people.

Senator Walters.— Well, isn't it fundamental that you do not desire his means to become productive?

The Witness.— All means must become productive and Russia is at at the present times straining every nerve to get all means productive.

Senator Walters.— In other words, his money shall be applied to the benefit of Russia without any result in benefit to him?

The Witness.— Money as such is not productive.

Senator Walters.— Would your Soviet principle applied to the accumulation of Russian bonds in this country lead your country to refuse to pay on the ground that the capitalistic class in this country had accumulated or had acquired those bonds?

The Witness.— The Russian Soviet Government has nothing against — nothing against capitalists in this country. All they want is to make a compromise with capitalists in this country.

Mr. Stevenson.— Is not that a temporary compromise?

The Witness,—No, not at all.

Mr. Stevenson.—I show you a paper and ask you if you recognize it?

The Chairman.—Are you through with your examination, General?

The Attorney-General.—No, no; I have not started.

The Witness.—It looks like a lot of laws and regulations of the Soviet Government, but I am not sure that it is.

Mr. Stevenson.—I wish to offer this in evidence.

(Received in evidence and marked Exhibit 307.)

Mr. Stevenson.—This is a photostat of official Document No. 8 of the Soviet Government, Section 112. I will read a translation:

“Decision. 112. About the assignation of two million roubles for the needs of the international revolutionary movement.

“Taking into consideration that the Soviet power stands on the foundation of principles of international solidarity of the proletariat and the brotherhood of the toilers of all countries, that a fight against war and imperialism can lead to a full victory only on an international scale.

“The Soviet of the Peoples Commissaries considers it is necessary to come to the assistance of the left international wing of the labor movement of all countries with all possible, and among those with pecuniary means, absolutely independently from the fact whether these countries are at war with Russia or in alliance, or are maintaining a neutral condition.

“With these aims the Soviet of the Peoples Commissaries decides to assignate for the needs of the revolutionary international movement for the disposition of the foreign representatives of the Commissariat for foreign affairs two million roubles.

“Chairman of the Soviet of the Peoples Commissaries VI. Uljanoff (Lenin).—”

Mr. Stevenson, (Addressing the witness).—That is Lenine, can you tell me?

The Witness.— Yes, that is Lenine.

Mr. Stevenson.— Can you tell me what date?

The Witness, (Examining the translation).— I don't know whether the translation is made true, but anyhow it looks like a translation of a decree of the 23rd of December, 1917. If you remember, gentlemen, the time, if you know the circumstances which were connected with this decree, you will immediately understand that it was an offensive measure against, chiefly, the Imperial German Government — not the Imperial, but the present German Government, yes, and the Imperial, too, which was menacing the existence of Russia at that time.

Mr. Stevenson.— How about all countries?

The Witness.— About all countries, nothing said. Russia had most to do with the German Government at that time. It was December, 1917, I repeat — not, at some time —

Mr. Stevenson.— Just a minute. Coming back to the proposition of the position of the Soviet Government towards the capitalists and capitalism, Nicholas Lenine speaks for the Russian Communist party, does he not?

The Witness.— Yes.

Mr. Stevenson.— I find in his work called "The Soviets at Work" the following on page 10: "A New Phase in the Struggle with Capitalism. We have defeated the bourgeoisie, but it is not yet destroyed or even completely conquered. We must therefore resort to a new and higher form of the struggle with the bourgeoisie; we must turn from the very simple problem of continuing the expropriation of the capitalists to the more complex and different problem — the problem of creating conditions under which the bourgeoisie could neither exist nor come anew into existence. It is clear that this problem is infinitely more complicated and that we can have no Socialism until it is solved.

(Page 10 of "The Soviets at Work," was received in evidence and marked Exhibit No. 308).

Mr. Stevenson.— That is correct, is it not?

The Witness.— It looks correct.

Mr. Stevenson.— As a matter of fact the offer apparently made by the Soviet Government to pay the foreign bonds of the old regime is a matter simply to bring about temporary peace and recognition of the Soviet Government, is it not?

The Witness.— Yes, sir; to bring about peace, because Russia is not interested in war but has to reconstruct economically the country and cannot afford to spend all her energies with war, which Russia hates.

Mr. Stevenson.— But in making such a payment on the old regime bonds, it will be going against the principles of the Russian Communist Party, would it not?

The Witness.— No.

Mr. Stevenson.— It would, would it not?

The Witness.— You are talking about purely theoretical things and are referring them to some particular —

Mr. Stevenson.— Isn't it a matter of fact that the Russian Communist Party is attempting to put the theoretical into practice?

The Witness.— Certainly. \*

Mr. Stevenson.— That is all.

The Chairman.— Now, General, you may proceed.

The Attorney-General.— Mr. Stevenson read what you conceded I understand to be the position of the Lenin-Trotsky Government in 1917?

The Witness.— Yes, sir.

The Attorney-General.— Now, do I understand you to say that they have receded from that position?

The Witness.— Yes, I should say.

The Attorney-General.— In other words, what I call it they have reformed, in some respects?

The Witness.— Well, if you like to call it so.

The Attorney-General.— I say I would call it that.

The Witness.— Perhaps (laughing).

Mr. Stevenson.—Lenine took that same position in 1918, did he not, when he addressed his first letter to American workingmen?

The Witness.—I think that was also in 1918.

Mr. Stevenson.—I think it was in 1917.

The Witness.—I don't remember.

The Attorney-General.—What public utterances of his are there to show that he has had a change of heart?

The Witness.—Well, there is such a lot of talk about propaganda in other countries, I can only tell you that every government uses its propaganda in other countries, if the moment suits, so it is not a secret if I tell that the United States Government used to make propaganda in Germany during the war and most radical propaganda, socialist radical propaganda, so the same thing did Russia.

The Attorney General.—Of course, that is for war purposes; that could be excused, when it could not be excused when countries were not at war.

The Witness.—Exactly. The Soviet Russian government applied propaganda against all countries with whom it was at war. We sent propaganda later to the English soldiers, the French soldiers and the Italian soldiers when we were confronted with them face to face in the trenches. Nobody can have something against Russia for that, there is nothing against that propaganda.

The Attorney General.—Now, we hear a good deal from the Soviet government in relation to a government which they call a capitalistic government?

The Witness.—Yes, sir.

The Attorney General.—What do you mean when you refer to a government as a capitalistic government?

The Witness.—Well, a government which is dominated by capitalistic interests and any capitalist countries where capitalism is developed and influential and has power to dominate a situation, has power to influence any public institution—I call that a capitalistic government.

The Attorney General.—And you call this government, the United States government, a capitalistic government?

The Witness.—Well, it is a democratic government.

The Attorney General.—Do you call it a capitalistic government, under your definition of a capitalistic government?

The Witness.—No.

The Attorney General.—What do you call it?

The Witness.—A Democratic government, a democratic parliamentary government.

The Attorney General.—And not a capitalistic government in any way.

The Witness.—“A capitalistic government” is a vulgar form of speech, which has a certain theoretical definition. We cannot discuss all of these theoretical questions, the Rand School will explain you all the definition of capitalistic government.

Mr. Stevenson.—Does not the Rand School say this is a capitalistic government?

The Witness.—Let them say what they will.

The Attorney General.—You are not here to defend the Rand School?

The Witness.—No, sir.

The Attorney General.—That is a job by itself? Now, I framed my question to suit you, I thought I was asking you for your definition of a capitalistic government, which you gave me; is that right?

The Witness.—Yes.

The Attorney General.—Now, I ask you whether under that definition you call the United States government a capitalistic government?

The Witness.—I repeat—

The Attorney General.—I leave it all to yourself, your own mind and your—

The Witness.—I mean if it is used in a vulgar way, it may give absolutely a different impression. Capitalism as understood theoretically is an absolutely clearly defined state of things. So,

in this sense, I could call the United States government a capitalistic government, and the English government also a capitalistic government, and the German government also.

By the Attorney General.—

Q. Under the definition which you have given yourself of capitalistic government, do you call the government of the United States a capitalistic government? A. Yes.

Q. Mr. Martens, does the value of a ruble vary? A. Yes.

Q. And what is the relative value now as compared with the value of a ruble in 1917, can you tell me? A. In 1917 a ruble was worth, I think, 25 cents; now it is worth about 6 cents.

Q. How long ago was it that you learned that they were worth six cents—that the value of a ruble was 6 cents? A. I learned in the papers, the quotations.

Q. They have been as low as 2 cents, have they not? A. As I understand, the Kolchak rubles went to one cent and half a cent.

Assemblyman McElligott.—Would those Russian bonds be paid in rubles?

The Witness.—No, in American money.

Assemblyman McElligott.—They were to be paid in American money and then redeemed?

The Witness.—Yes.

Assemblyman McElligott.—Not in rubles?

The Witness.—No, of course not.

By the Attorney-General:

Q. I think it appears -- but to get the angle of it -- you were furnished some credentials from the Russian Soviet Government after you came to the United States? A. Yes, sir, I was.

Q. What, briefly, are those credentials? A. Appointing me to represent the People's Commissariat for Foreign Affairs here in the United States.

Q. And that is the Lenine-Trotsky government? A. Yes, sir, if you prefer to call it the Lenine-Trotsky government. I would prefer to call it the Soviet government.

Q. Well, I am not particular, just so that we understand what we are talking about -- Soviet government, you said? A. Yes.

Q. Now, how long after the organization of the Soviet government were those credentials issued to you? A. I think about fifteen months after the establishment of the government.

Q. And that would be about what time? A. About January, 1919.

Q. January, 1919? A. Yes.

Q. And received by you here in New York? A. Yes, sir.

Q. How? A. Received by messenger.

Q. Do you object to telling me who the messenger was? A. Yes, sir.

Q. You decline to tell the Committee who the messenger was who actually delivered the papers? A. Yes, sir.

Q. Why? A. First of all, I am bound in honor not to tell who it is; secondly, all these matters refer to my communications with the Soviet government, which I regard as privileged.

Q. Were the papers sealed? A. Yes, sir.

Q. Do you know whether or not the agent who delivered them to you knew what was contained in the package that he was delivering? A. Yes, he knew about it.

Q. Where are those particular papers now? A. Those particular papers are in the State Department at Washington.

Q. And how long have they been there? A. I sent them, as far as I remember, the 15th of March, 1919.

Q. And you sent them to the State Department, or to some particular person? A. Addressed to Mr. Lansing.

Q. The Secretary of State? A. Yes, sir.

Q. Did you receive any acknowledgment of the receipt of the papers from Mr. Lansing? A. No, I did not.

Q. Did you receive any acknowledgment from any representative of the Secretary of State of the receipt of the papers? A. No, I did not.

Q. And you have no personal information that they were ever received at Washington? A. Well, as far as I know, there is no doubt that the papers were received.

Q. Did you ever talk with Postmaster-General Burleson on the subject? A. No, I did not; but it was stated by one of the officials in the State Department to one of the newspapers — I think it was the New York Times — that the papers were received.

Q. You say in the New York Times a statement purporting to come from the Washington correspondent that the papers had been received? A. Yes, sir.

Q. And that is the only information you have on the subject as to whether or not they had been thus received? A. Yes, sir. The standpoint of the State Department in regard to the matter is that as long as the Soviet government is not recognized, the representative of the Soviet government is also not recognized as such.

Q. Who told you that? A. On several occasions Mr. Lansing and other gentlemen from the State Department expressed themselves publicly.

Q. Well, have you ever had any talk at all with Secretary Lansing on the subject? A. No, I have not.

Q. And did anyone tell you that Lansing told him the reason you have just detailed? A. Well, it was the general talk.

Q. Well, it was purely hearsay? A. Yes.

Q. Well, now, you have never been over to Washington to see whether those papers were on file there? A. No.

Q. Have you been to Washington for any purpose? A. Yes, I have.

Q. When last? A. About five months ago.

Q. Have you ever been there but once? A. Only once, yes.

Q. Only once? A. Yes.

Q. Did you attempt to see the Secretary of State? A. Yes, I did.

Q. You did not get an audience with him? A. I did not attempt it officially.

Q. Well, I did not say anything about "officially." You attempted to have an audience with the Secretary of State? A. Yes.

Q. And you did not succeed? A. Yes.

The Chairman.— You say you did not?

The Witness.— No, I did not.

The Attorney-General.— There was a little question as to the meaning.

By the Attorney-General:

Q. Now, you were claiming recognition from the State Department by reason of being the Ambassador of the country that you were representing? A. Yes, sir.

Q. Are you familiar with the usual formalities in the presentation by an Ambassador of his credentials to our government? A. No, sir, I am not familiar with those things.

Q. Well, did you ever hear of any other duly accredited ambassador sending his important documents to Washington by mail? A. No, I did not.

Q. Did you ever take any pains to find out from those who knew the usual method of the presentation of such important papers? A. I don't know how to answer you.

Q. Did you take any pains to find out? Did you make any inquiry of anybody who would know what the form was of presenting papers of that character, how they usually are presented to our officials? A. When I received my papers, the first thing I did was to sit down and write a memorandum to the State Department explaining my purpose.

Q. You did not answer my question. A. Yes, I will answer it — and all I cared about was to explain to the State Department what I am and what for I am here, and send these papers asking the Secretary of State to give me an interview. That is all I did. That is all I cared to do.

Q. My question is — if I have made it plain — if you made any inquiry of anyone who knew what particular form was usually pursued by the Ambassadors — those representing foreign countries — in the presentation of their credentials to the State Department in Washington? A. No, I did not make any inquiry.

Q. You wrote Lansing a letter, then, before you sent those papers over there? A. I sent my letter with these papers.

Q. You sent your letter with these papers? A. Yes.

Q. And to that you never had any sort of acknowledgment from the State Department? A. No.

By Assemblyman McElligott:

Q. Is there a representative of the old Russian Imperial Government at Washington to-day — the Ambassador of Russia — is he still in Washington? A. Not any representative of the Imperial Government, but a representative of the Revolutionary Government of Kerensky.

Q. What is his name? A. Bakhmeteff.

Q. He is a resident of Washington now? A. Yes, as far as I understand.

Q. And what authority has he in regard to Russian matters? A. No authority whatever.

Q. Well, did he protest against your introduction and the receipt of your papers in Washington when they were sent there, do you know? A. I don't know.

Q. Have you had any connection with him in any way? A. No, not at all.

Q. Well, has he any standing in Washington as the representative of the Russian Government at the present time? A. As far as I know, he has.

Q. Well, he is recognized, is he? Is he recognized by the United States as the representative of Russia in the United States? A. Yes.

Q. He is the recognized representative? A. Yes, but as a representative of what, nobody knows.

Q. But he is recognized as such, is he not? A. Not one lawyer in the world will explain the nature of Mr. Bakhmeteff.

Q. I did not ask about any lawyers; I simply asked the fact of whether he is recognized. A. I don't know.

Q. He is recognized by this government as the representative of Russia? A. Of Russia, or maybe Siberia — I don't know.

By the Attorney-General:

Q. Well, he was there as the duly accredited representative of the Russian Government before this change in the form of their government? A. Yes.

Q. And has continued to stay there? A. Yes, sir.

Q. And there is no other representative of the Russian Government, so far as you know, in this country, excepting the one in Washington and yourself as the representative of the Russian Soviet Government? A. Yes.

Q. You say yes, you mean you two are the only two who are in any way representing the interests of Russia? A. Yes.

Q. And of course up until now you have received no recognition as the Ambassador of your country from the government of this country? A. Not yet, no.

Q. These papers were sent on to the Department of State about the middle of March, 1919? A. Yes.

Q. Had you already opened an office here? A. Yes, I immediately opened an office at 299 Broadway.

Q. Before you sent these papers on? A. No, simultaneously.

Q. What had been carried on in the office that you opened at 299 Broadway before you established your headquarters there?

A. It was the Russian Information Bureau.

Q. Nuorteva in charge of it? A. Yes.

Q. How long had you known him? A. Since the end of 1918.

Q. And you came here — so that we won't be confused in our dates? A. January, 1916.

Q. And what had you done in this country from January, 1916, down until the time you received this appointment as the representative of the Russian Soviet Government in March, 1919? A. I was acting as the representative of a big Russian steel firm.

Q. Did you have an office? A. Yes, I had an office at the beginning in the Hotel McAlpin, and then I haven't had any particular office.

Q. How long did you have an office at the Hotel McAlpin as the representative of this steel company? A. About a year. There was a gentleman by the name of Mr. Gibson who was at that time the representative of this firm, and when he left at the end of 1918 I was representing the firm.

Q. Were you under pay? A. Yes.

Q. From what company? A. From Demedoff Cont Sandonoto.

Q. Now that was a Russian corporation? A. Yes, sir.

Q. And their business was in Russia? A. In Russia; yes, sir.

Q. Whom did you deal with in this country; who were you endeavoring to make contracts with? A. I was buying for this firm.

Q. You were buying? A. Yes.

Q. Buying products here? A. Yes, sir; machinery.

Q. Did you actually buy machinery? A. Oh, yes, quite a lot, and shipped it on to Russia.

Q. That was before the organization or formation of the Soviet Government? A. Yes.

Q. Now, did you receive money from this company? A. Yes.

Q. And money outside of your monthly or weekly wage? A. Yes.

Q. And expenses? A. Yes.

Q. Did you have any sum of money of this company on hand at the time of the receipt of the papers from the Soviet Government appointing you the ambassador? A. Yes, I had about \$20,000.

Q. Now did you use any of that money in the organization of your bureau? A. No, not a cent.

Q. And did you then stop the employment — did you cease then to be employed by this Russian corporation in the purchase of machinery or products of any kind? A. I practically ceased

because no shipment was possible to Russia, but I had outstanding orders which I paid by and by. That is all that I have done for this firm.

Q. You say you had about \$20,000 on hand from this company at that time? A. Yes, sir.

Q. What became of it? A. I spent it.

Q. I just asked you if you spent any of the money you had on hand? A. But not for the bureau; you asked me if I spent it for the bureau; I spent it in paying for orders for this firm.

Q. You spent it by paying for things for which you had contracted? A. Yes.

Q. Were they shipped? A. No, they were not shipped.

Q. They are not shipped yet? A. No.

Q. Now do you know what became of the company after the Soviet Government was organized? A. Yes, I know.

Q. Taken over by the Soviet Government, wasn't it? A. No, it was partly destroyed by the Kolchak bands and Czecho-Slovaks, and now it is under the jurisdiction of the Soviets.

Q. Have they made any demand for the shipment of the machinery or products that you purchased with this \$20,000? A. They didn't mention it.

Q. As far as you know they don't know anything about it? A. No.

Q. My information came that you had stated that you mingled this \$20,000 with your own money, or with the Russian Soviet money that you had received. A. No, it isn't true; I can prove it.

Q. I say possibly I am mistaken about my information, but if I have been so informed, that isn't the fact? A. It isn't the fact, no.

Q. Is your Bureau still at 299 Broadway? A. No, it is 110 West 40th Street.

Q. And when did you move from 299 Broadway to the new quarters? A. I think it was April of this year.

Q. So you actually moved from there before you received — A. No, that was March.

Q. You didn't move? A. About a month later I moved.

Q. What office force have you in your new quarters? A. I have about 30 men working.

Q. Consisting of clerks and stenographers? A. Yes, sir.

Q. How many clerks? A. About eight clerks, ten stenographers.

Q. What are the duties of the other employees? A. Why my office is divided into separate departments, commercial department, publicity department, economical department, statistical department, and technical department.

Q. Any legal department? A. A legal department. Each department is in charge of a gentleman.

Q. Who reports to you? A. Yes.

Q. And are responsible to you for the conduct of the various departments over which they preside? A. Yes.

Q. And I take it that you assume full responsibility for the acts of the heads of these departments? A. Yes, sir.

Q. Now, to go back a moment to the date of the receipt of your credentials in March, which you say were delivered to you by a special messenger, did you receive any other communication in the form of letters or other documents at that time? A. Yes, sir, I am receiving from time to time.

Q. No, no, I am back now to the date when you received your official announcement of your appointment as ambassador to the Soviet government? A. Yes.

Q. By the same messenger who delivered those papers to you, did you receive any other papers or documents? A. Yes.

Q. And among them were there instructions; did you receive instructions? A. Yes.

Q. From the Soviet government? A. Yes.

Q. And you have those now? A. Yes.

Q. And you could produce them if you desired to? A. Yes, sir.

Q. And do you take the same position with those papers that you did with the other? A. Yes, sir.

Q. And decline to produce them for the inspection of the Committee? A. Yes, sir, unless my government agrees to it.

By Assemblyman McElligott:

Q. How long would it take for you to get in touch with your government to find out whether your government would be willing to disclose those documents or not? A. About two months.

Q. About two months? A. Yes, sir.

Q. You would have to send an ambassador to your government and would have to have him come back? A. Yes, sir.

Q. How would your messenger go? A. I decline to answer that.

By the Attorney-General:

Q. Why do you decline to give the Committee the information as to the way a messenger would reach your country? A. I will explain it, Mr. Newton. Because it is not within the scope of an investigation of this Committee.

Q. Is that your own reason? A. Yes, sir.

Q. In other words, you don't think it is any of their business, to be perfectly plain, so we will understand? A. It is not within the scope of the investigation of this Committee.

Q. Who told you that? A. Well, I know what this Committee is for.

Q. Did somebody tell you it was not any business of this Committee how you communicated with your own government, whether it was open and above board or secretly? A. No, I told myself.

Q. You told it to yourself? A. Yes, sir.

Q. None of your legal staff gave you that opinion as a lawyer? A. I have also the opinion of my lawyers.

Q. They agreed with you about that? A. Yes.

Q. Is there any objection to telling us what particular one of your lawyers concurred in your judgment on that proposition?

A. I shouldn't care to tell that.

Q. Don't want to tell? A. No.

Q. Aren't ashamed of his advice? A. No, I am not ashamed; I think the advice is quite right.

Q. But you don't want to tell us which one of them it was?

A. I think all of them.

Q. Was it Weinstein — you said you didn't care to tell? (No answer.)

Q. Will you give the Committee a list of your staff of lawyers up to date? A. Will I give it?

Q. Yes, the names of them. A. Yes, certainly.

Q. As a matter of interest, I don't suppose it is of any great concern; I would like to have it. A. Now?

Q. Yes, the names of them; can you do it offhand? A. Yes. The Economical and Statistical Department is in charge of Prof. Hourwich.

Q. Don't misunderstand me; I asked you for your staff of lawyers, up to date. I may take that up step by step as I ask some questions about the particular workings of your office.

A. My lawyers are Mr. Hillquit and Mr. Recht.

Q. Morris Hillquit? A. Yes, and Charles Recht.

Q. I thought you told me this morning that you had three lawyers; did I misunderstand you? A. Well, officially Prof. Hourwich is helping me as a lawyer, but his official capacity is not as my lawyer, but as manager of the statistical department.

Attorney-General Newton.—Mr. Chairman, it is suggested that we take our recess at this time.

The Chairman (Mr. Martin).—The Committee will take a recess until 2:15.

(Recess until 2:15.)

#### AFTERNOON SESSION — 2:35 P. M.

The Chairman.—The Committee will come to order. You may proceed, General, with the examination of Mr. Martens. Is Mr. Martens here?

The Attorney-General.—He is here.

By the Attorney-General:

Q. Mr. Martens —

The Witness.—Mr. Chairman, will you allow me to explain why I declined to surrender certain of my papers?

The Attorney-General.—Some explanation beyond the one you gave this morning?

The Witness.—Yes.

The Attorney-General.—Yes, I am going to let you explain.

The Chairman.—I did not hear what you said.

The Attorney-General.—The witness wants the privilege of making a further explanation why he declined to produce some of his papers. I am inclined, if the Chairman is willing, to permit it, and will give him very great latitude.

The Witness.—I declined to do it on the ground that it has been held by the United States Supreme Court, in the matter of the Pacific Railroad Commission (32 Federal Reporter, 241),

that Congress cannot compel the production of private books and papers of citizens for its inspection, except in the course of judicial proceedings; and it has been explained, in the same decision, that an investigation of a legislative committee is not a judicial proceeding. I am advised by counsel that the powers, as a Committee of the New York Legislature under the Constitution, are no broader than the powers of a committee of the United States Congress. Notwithstanding this privilege, I have produced for the inspection of your Committee all my books and papers relating to my own activities in the State of New York. I insist, however, on my privilege under the decision of the United States Supreme Court, insofar as my correspondence with my government is concerned.

By the Attorney-General:

Q. Who prepared that statement for you? A. My lawyers.

Q. And at their suggestion you ask the privilege of reading it into the record? A. Yes, sir.

Q. They did not read you any provision of the Code of Civil Procedure of this State, did they? A. I do not know what you mean.

Q. I hold in my hand what is supposed to be the law of this State, the Code of Civil Procedure, which defines certain law and practice. Did counsel call your attention to any provisions of this Code in answering the proposition that you have just discussed? A. No, Mr. Newton.

Q. Well, will you make a little minute on your papers there and ask them to read section 656 of the Code of Civil Procedure, and ask them if they do not want to advise you to-morrow to change your mind. A. (Witness makes note as requested.)

Q. About how much is the payroll, per week, of your office? A. About \$1,200.

Q. And does that include your own compensation? A. Yes.

Q. And has that been about the average since March 15th? A. Since April.

Q. Since April? A. Yes, sir.

Q. And what is the source — or from what source do you get the money to carry on this office? A. From the Soviet government.

Q. All of it? A. All of it, yes.

Q. Have you accepted contributions from any other source? A. No, I haven't any contributions.

Q. Not a dollar? A. Not a dollar.

The Chairman.—How much was that payroll?

The Attorney-General.—\$1,200 a week.

By the Attorney-General:

Q. Now, have you had any other expenses except the payroll of your office force and the rent? A. I had expenses in connection with the publication of our papers, "Soviet Russia."

Q. Are there any other expenses of your organization there except the publication of this paper and the payment of the rent of your office and the office force? A. No, that is all.

Q. Including yourself, of course? A. Yes.

Q. Who fixes your compensation? A. I myself.

Q. You have never had any arrangement with your government as to how much you should receive? A. No.

Q. You take what you think your services are worth? A. Yes, sir.

Q. And you take it from the money that has been furnished by the Soviet government? A. Yes, sir.

Q. How do you receive these moneys from the Soviet government? A. It is sent to me direct.

Q. Well, in cash? A. In cash, yes.

Q. Regular money? A. Regular money.

Q. And by messenger, I take it? A. Yes, sir.

Q. And in what sums? A. In sums up to about twenty to twenty-five thousand dollars.

Q. At a time? A. Yes.

Q. And the total up till now has been about what? A. About sixty to seventy thousand dollars.

Q. When did you receive the last money? A. About five weeks ago.

Q. Do you know whether or not there is any more on the way? A. Why, I don't know. I hope there is.

Q. And you have no way of knowing it until it is actually handed to you just how much is coming, or how, or when? A. No.

Q. Will you tell me who handed you any one of these amounts? A. No, I can't tell you, Mr. Newton.

Q. What? A. I cannot tell you.

Q. You do not mean you cannot tell; you mean you decline to tell? A. Yes.

Q. And for the same reason you have given in your refusal to answer other inquiries which have been made, which you have refused to answer? A. Yes, sir.

Q. In other words, your refusal to answer that and similar questions is based upon the proposition that you are the duly accredited representative of the Soviet government? A. Yes, sir.

Q. And really stand in the same position as though your government had been recognized by this country? A. Yes, sir.

Q. Although, as a matter of fact — there is no dispute about it — there has been no such recognition? A. Not by the United States Government; but the United States Government did not express itself.

Q. Well, they have never, to your knowledge, in any way recognized the Russian Soviet Government? A. No, they have not.

Q. And you have taken their absolute silence on the subject as a declination to so recognize your Government, have you not? A. No, not exactly.

Q. Well, have you taken their absolute silence on the subject as an acquiescence of recognition? A. I have taken it that the moment is not opportune to deal with the Soviet Government.

Q. That the officials in charge have not yet had nerve enough to decide the question one way or the other? A. I don't know whether they have had nerve enough or not, but the fact is they have not expressed themselves.

Q. And you have been willing to accept the refusal to act at all as a possible conclusion that they might favor your government? A. I hope they will favor it.

Q. You hope they will, but do you accept their refusal to act at all as an indication that they might recognize your government? A. Yes, I do.

Q. And that is the only hope you have? A. I have several other hopes.

Q. You have other hopes? A. Yes.

Q. What are they? A. The whole political situation of the world; the business negotiations which are being conducted now between my government and other governments.

Q. Well, do you think that the action of any other government would influence our government here? A. It is my heartiest wish.

Q. I understand that, but do you have any real hope of it; is your wish founded on any real hope? A. Yes.

Q. Of course, the old saying, I assume, applies there, of "If wishes were horses?" A. I feel about the same, except that it is a little bit more than horses.

Q. This money, when it comes to you from the representative of your government, as it is handed to you, is it in cash? A. It is in cash, yes.

Q. And have you ever made a deposit in any bank, in cash, as high as twenty thousand dollars? A. Yes.

Q. When? A. I don't remember the exact date, but I have had in my bank at times about twenty to twenty-five thousand dollars.

Q. I understand that, but that is not the question. I want to know if there was ever a day when you went into any bank in New York and deposited twenty thousand dollars in cash at one time? A. No, not at one time.

Q. What is the highest sum, or highest amount, you ever deposited at any one time? A. I think about ten thousand dollars.

Q. And at those times you had larger sums upon your person? A. Yes.

Q. And you carried the cash around with you rather than to make the deposits? A. I probably carried it in my safe deposit at the bank.

Q. What is your reason in taking, say, \$20,000 from your government in cash, putting \$10,000 in the bank and keeping the other \$10,000 on your person or in your safe deposit box, if you had a reason? A. Well, no particular reason, but I am keeping always as much money as I approximately need for a week or two.

Q. You pay most of your obligations by check, do you not? A. By check.

Q. So that money which you keep in your pocket or keep in the safe deposit box you didn't use for current expenses? A. No, I did not.

Q. The reason you have given me isn't a very good reason, is it? A. Why?

Q. The reason you just gave me isn't a very good reason in answer to my inquiry? A. The money is just as safe in my safe deposit as in the bank. It doesn't give me any interest.

Q. It is just as safe in your pocket if some of these New York fellows don't find out you are carrying it around. A. I don't carry it in my pocket.

Q. Where is your safe deposit box? A. Equitable Trust Company.

Q. And have you any large sums of cash in that now? A. Not now.

Q. How much would say off-hand that you have on hand in cash in your safe deposit box? A. At the present moment, nothing.

Q. What was the last sum of any amount that you had in the box? A. About \$15,000.

Q. And when was that? A. A few months ago.

Q. Did you take it all out one time? A. Yes — no, gradually; excuse me.

Q. Did these lawyers that you have hired, that you have mentioned here, know about that, about the cash? A. The lawyers?

Q. Yes. A. What has it to do with the lawyers?

Q. Doesn't the money you have got have any relation to the lawyers which you hire? A. I don't understand the question.

Q. Now you have already testified to the amount of money that you had received from your government up to August? A. Yes.

Q. You were examined over at the Attorney-General's office and gave them some figures over there? A. Yes.

Q. Did you have the figures of the amounts at those times correctly in your mind? A. Approximately.

Q. March, 1919, \$20,000? A. Yes.

Q. April, 1919, \$20,000? A. Yes.

Q. May, 1919, \$10,000? A. Yes.

Q. July, 1919, \$20,000? A. Yes.

Q. So that made a total that you testified that you had received from the Soviet Government up to possibly and including July, of \$70,000? A. Yes.

Q. Now how much did you tell me you had received since? A. \$20,000.

Q. So that the sum total of the moneys you are willing to swear you have received from the Russian Government is about \$90,000? A. About \$90,000, yes.

Q. And the very last item which you received was how long ago? A. About five or six weeks ago.

Q. Haven't you received any in November? A. November, no.

Q. Not any in November? A. No.

Q. Do you know whether or not anyone in the Bureau has received any money from any source from the Russian Soviet Government except you? A. No, nobody receives any money.

Q. Nobody receives any money except you? A. Except me.

Q. If I understand you correctly, every dollar of this \$90,000 has been handed to you by some agency of the Soviet Government in cash? A. Yes.

Q. And all in American money? A. No, not quite. Some of it was in foreign money.

Q. How much of it was in American money? A. About a quarter of this money was — three-quarters of this money was in American money.

Q. About one-fourth was in — A. Swedish, Danish, Norwegian and Dutch.

Q. But all in the form of cash. A. All in the form of cash.

Q. What do you do with the foreign money? A. I deposit it in my bank.

Q. You deposited that as cash and it was accepted by the bank as cash? A. Yes.

Q. With the American valuation of the particular money? A. Yes.

Q. What form was the American money, gold, silver, bills? A. Bills.

Q. And the demoninations, large or small? A. Large denominations.

Q. How large, the largest? A. Not less than \$100.

Q. And how much larger, if anything? A. Up to a thousand dollars.

Q. Some thousand dollars bills? A. Some a thousand dollars.

Q. Do you give any receipt to the person who makes the delivery? A. No, the receipts are not necessary.

Q. Whether they are necessary or not, you don't give any? A. No, I don't give any.

Q. And there is no acknowledgment on your part to your government of the receipt of a single dollar of this money? A. I report to my government for every cent of money I am receiving.

The Chairman.— You are what?

The Witness.— I am reporting to my government about every cent of money I am receiving.

Q. How do you make those reports? A. I am sending reports.

Q. By mail? A. Partly by mail, partly by messenger.

Q. When you send a report of the expenditure of your money by mail, where do you send it? A. I decline to answer it.

Q. Will you tell me whether or not you send it directly to your own country? A. No, I cannot send it directly to my own country because my own country is blockaded and I could not send anything directly. Everything is sent indirectly.

Q. And I am to understand that there is some friendly agency somewhere outside of the United States? A. Yes, sir.

Q. And outside of your own country who transmits those letters? A. Yes, sir.

Q. Or communications? A. Yes, sir.

Q. And you decline to tell the Committee or to tell me what agency that is? A. Yes.

Q. And what is your reason for that? A. Same reason, I regard my communications with my government as privileged.

Q. Has it ever been suggested to you that communications of that sort would be a violation of the law of this land? A. I know a little about it, but this kind of communications are not violations of any laws of this country.

Q. Are you aware that there is some statute, or was some statute during the war, which is yet, theoretically at any rate, existing against communications of that sort? A. The war was actually finished the 11th of November, last year.

Q. Where did you get that information? A. Everybody knows it, I suppose.

Q. Don't you know as a fact that theoretically at any rate that we are still at war with Germany? A. Only theoretically.

Q. Theoretically? A. Yes.

Q. And that is legally at war with them from any legal standpoint? A. No, President Wilson declared that the war is finished.

Q. Don't you know that he declines to lift the ban on liquor because we are still at war with Germany? A. I don't know it.

Q. Do you object to telling me how you recognized these messengers who brought these vast sums of money to you? A. They are bringing letters from the Soviet Government.

Q. Were any of them acquaintances of yours? A. No.

Q. A total stranger would walk into your office here and hand you an envelope with \$20,000 in it? A. Yes.

Q. Make any inquiry of you to identify you in any way, or did he just take it for granted that you were the representative of the Soviet Government and hand you \$20,000? A. Yes, it is done.

Q. Wanted no receipt? A. No.

Q. Didn't get any? A. No.

Q. Do these representatives who have been so kind to you in the delivery of these moneys make any application to get back to Russia or to get out of this country? A. I don't know.

Q. Have you ever been asked to interest yourself in furnishing passports for them? A. No.

Q. Have you ever interested yourself in getting passports for anybody to leave this country? A. Not at all.

Mr. Stevenson.—Is that true?

The Witness.—Certainly it is true.

Q. And you haven't in fact been in any way instrumental in procuring any passports for anybody? A. Absolutely.

Q. Either to get in or to get out of this country? A. Absolutely.

Q. Do you know what became of any one of these men who delivered these sums of money to you, after they finished their business with you? A. I don't know.

Q. Ever call on you again? A. No.

Q. Never came around and asked you to entertain them in any way? A. Mr. Newton, I have to again decline to answer your question. You go again to the same point.

Q. No, that is general, I could not identify any of them if I saw them with you. A. When they have done their duty I don't care what they do.

Q. Well, it is a fact, as soon as a man walks in and hands you \$20,000 in an envelope from the Russian Soviet Government and says goodby, and fades away, and from then on you have lost interest in him, and so far as you know he has in you? A. Absolutely.

Q. Were they Russian people who made these deliveries of these funds? A. I decline to give the information.

Q. You are willing to admit that no Irishman ever came in and handed you \$20,000, aren't you? A. No, no Irishman.

The Chairman.—I think that the record should show that in each and every case where the witness declines to answer that he is instructed to answer by the Committee and has refused.

The Attorney-General.—I haven't yet asked the Committee.

The Chairman.—Then I withdraw that.

The Attorney-General.— I had this in mind, that when I got the record, if there were any questions which I deemed of importance enough, say to-morrow, I would call the witness' attention directly to-morrow and ask that the question be directed by the Chairman of the Committee to him specifically and take his refusal for such purposes as the Committee may want it to be used by the Committee hereafter.

Q. Now you have had at least five separate deliveries of money in the manner in which you have described from the Soviet Government? A. Yes.

Q. Were there more than five? A. No, five, that's all.

Q. And by a different agent each time? A. Each time.

Q. And do you now know whether or not anyone of the five are within the United States? A. I decline to answer that.

Q. I haven't asked you where they were, I have asked you whether or not you know they are here; do you decline to answer that? A. Yes, sir.

Q. Why do you decline to answer that? A. I have reasons to do it.

Q. What are your reasons? A. My reasons are I am bound by honor not to disclose their whereabouts and who they are.

Q. I haven't asked you where they are, I have given you the broad country? A. It amounts to the same.

Q. Do you know the whereabouts of any one of the five? A. Yes, I know.

Q. You do know? A. Yes.

Q. Now do you think that the bringing of any one of these sums of money to you in the manner in which you have described involves any criminal act? A. No, not at all.

Q. And you are not in any way refusing or declining to answer by reason of the fact that the act would be a criminal act? A. Not at all.

Q. Or a violation of any of the laws of our land? A. Not at all.

Q. Or that it would involve moral turpitude? A. Yes.

Q. What? A. Not at all.

Q. But you stand purely on the ground that you think it is a privileged act? A. Yes.

Q. When did you receive the last communication from your Soviet government? A. About a week ago.

Q. Was that by a special messenger? A. No, by mail.

Q. And that mail was sent through some other country? A. Yes, sir.

Q. It was not sent direct? A. It was not sent direct.

Q. And remailed to you by the agency which is employed? A. Yes, sir.

Q. And is that the same agency which you employ in answering your government? A. Yes.

Q. And every one of the communications that have gone, written communications that have gone by mail have gone to the same center and by that center have been forwarded to the Soviet government? A. Yes, sir.

Q. And the answer has been sent by the Soviet government through that center and by that center to you? A. Yes.

Q. And that is true in reference to all the communications that have been sent by mail? A. Yes.

Q. When was the last communication that you received by messenger? A. About six weeks ago.

Q. And that was the money? A. Yes.

Q. There has been none of this money entrusted to the mails as you described? That is all covered, as I understand it, by messenger? A. Yes.

Q. Now, when you get your money in the way you describe, do you get by the same source and by the same messenger other written communications? A. Yes.

Q. And written directions? A. Yes.

Q. Have you advised your government that up to now this country has through its representatives in Washington declined to recognize the Soviet government? A. Yes, I did.

Q. And have you advised them as to that subject more than once? A. More than once.

Q. When last did you tell them? A. Two weeks ago.

Q. And have you had any communications from your government in answer to your information that the government here was not recognizing you? A. Yes, I have.

Q. So that you know that the Soviet government is advised and understands that up to now this country has not recognized you? A. Yes.

Q. That it has not recognized your government or recognized you as its representative? A. Yes.

Q. I suppose all of these communications form part of your records, that is, you have not destroyed any of them? A. No, no.

Q. And they are all in existence and under your control? A. Yes.

By Mr. Stevenson:

Q. You stated before that you had destroyed some of your government communications? A. Some that were unimportant, I have.

Q. Were any of the communications from your government unimportant? A. Well, perhaps some.

Q. What were the contents of those that you destroyed—how many did you destroy? A. All the official communications I am keeping in my control, but I am receiving of course quite a lot of letters of a private character from my friends in Russia at the same time, and I have no interest in keeping those letters.

Q. Why? A. Well, not to give you, Mr. Stevenson, an opportunity to twist every word which is written.

Q. Is there anything in those letters which would be subject to being twisted? A. Yes.

Q. And that is why you have destroyed them? A. I don't want to give you an opportunity to twist every one of them.

Q. And is that why you have destroyed them? A. Yes, that is why.

By the Attorney-General:

Q. Well, what you mean, I take it, is that the contents of them could be construed by one person in a certain way and by another person in another way? A. Not at all,—by Mr. Stevenson, who is a master of misconstruing everything.

Q. Oh, by one particular person? A. Yes.

Q. So you thought it safer to get a lot of them out of the way? A. Yes.

The Attorney-General.—Safety first. You must have ridden on the Erie Railroad.

Q. Well, of the official documents which in any way gave you instructions as to your actions as representative of the Soviet government, none of these have been destroyed? A. No, sir.

Q. And they are in your control and if you were so inclined you could produce every one of them? A. Yes, sir.

Q. I think you told me you had not received any money from the Soviet government in November? A. No, I did not receive any.

Q. Did you receive any money from any source to be used by you in your enterprise in November? A. No, I did not.

Q. I show you a check book which has been handed to me, which purports to be your check book on The Public National Bank of New York, and ask you if these items over here are in your handwriting. A. In my cashier's handwriting.

Q. Who is the cashier? A. Mr. Hubsch.

Q. Is he present? A. No.

Q. He is in the city? A. Yes.

Q. You recognize that item as being his handwriting? A. Yes.

Q. 11-1-19 — from what is that? A. Stockholm.

Q. What is that the name of, a Russian city? A. No, a Swedish city.

Q. And \$4,000? A. Yes.

Q. What does that indicate? A. It was sent to me.

Q. Well, then, in your statement to me that you received no money from any source in November, you were mistaken about that? A. Oh, what date is that? The first of November I did receive that.

Q. So how did that money come? A. In the form of a draft.

Q. And by mail? A. Yes, by mail.

Q. To you personally? A. Yes.

Q. And this page here indicates that on the first day of November, 1919, that \$4,000 was deposited to the credit of your account in this Public National Bank of New York? A. Yes.

Q. Now, do you recall any other items upon reflection that you received in November from any source? A. No, that is the only item I received.

Q. Well, whose handwriting is this in here, under date of the 3d of November? A. (Witness examines check book.) (Reading): "Check for Soviet Russia, Metropolitan News Company." Paid over by a publication.

Q. This is a deposit, isn't it? A. Well, they sent us a check and we deposited the check in the bank.

Q. So you did receive that item? A. Oh, yes; \$345, I omitted that.

Q. It is only \$265. A. Yes, \$265.

Q. And whom do you say that came from? A. From the Metropolitan News Company.

Q. Where are they located? A. Here in New York; they are our distributing agents.

Q. That is money that they received from the sale of your — A. Our paper.

Q. — your Russian paper, what do you call it? A. "Soviet Russia."

Q. What is this \$136.50 mean there? A. Probably a check number; I don't know.

Q. Oh, no; it is 136 blank 50. A. Or a bill number; I don't know.

Q. You cannot tell? A. I cannot tell, but it is the Metropolitan News Company.

Q. Now, under the same date there is a check from what? For \$1,000 — what is that? A. Dr. Mislig.

Q. Well, who is he? A. A friend of mine.

Q. Does he live here in New York? A. Yes.

Q. What is he giving you a check for a thousand dollars for? A. It is a personal loan.

Q. That is, out of this Soviet money that you received from your government you loaned him a thousand dollars? A. No, not I; he loans it to me.

Q. Oh, he is loaning this to you? A. Yes.

Q. And you are putting it in with the Soviet government money? A. Yes, I put everything in my bank.

Q. Well, this money in the bank all belongs to the government you represent, does it not? A. No, partly my personal money.

The Chairman.— Is that a contribution or a loan?

The Witness.— A loan, and I paid it back, as a matter of fact, partly.

By the Attorney-General:

Q. By check? A. By check, yes.

Q. Well, will you find me the check in this book, let me see when you did that (handing check book to witness)?

Mr. Berger.— Does Dr. Mislig live up on Madison avenue, Mr. Martens?

The Witness.— No.

By the Attorney-General:

Q. Where does the doctor live? A. I don't remember his address, somewhere uptown.

Q. You had a friend who let you have a thousand dollars and you don't remember where he lives? A. I have many friends who would give me tens of thousands of dollars if I wanted it.

Mr. Berger.— Who are they?

The Witness.—All over America — but I don't ask it. That is all.

Q. There is no other check book, is there? A. Yes, I think that is the one.

Q. On another bank? A. No, on the same bank.

(Witness examines check book.)

Mr. Stevenson.— You did not pay back the money before you received it, did you, Mr. Martens?

The Witness.— Just a minute.

(The witness continues examination of the check book.)

The Witness.—As far as I remember, I paid the \$500 back.

By the Attorney-General:

Q. When did you do that A. I think soon after that. I don't remember the dates.

Q. You gave them a check to his order? A. I don't remember exactly how I did it. I think November 6th it was.

Q. Well, on November 6th you drew out of the bank to yourself \$1,000? A. Yes.

Q. There is not anything on the books to show that the Doctor got any part of that, is there? A. No, I don't think so — yes, I gave him \$500 back, but I think in cash.

Q. Well, now then, some time in November? A. Yes.

Q. You say you think; that always arouses my curiosity a little. A. I paid him \$500 back, but I don't remember the day or in what way I paid him — cash or check then, but I paid him \$500 back.

Q. And you cannot tell a transaction of that sort since the 6th of November, where you were returning \$500 of an obligation — you cannot tell whether it was cash or a check or the form of the payment? A. Well, Mr. Newton, I have many other things to do, so this little point might escape my memory.

Q. You are pretty nearly as busy as the Attorney-General, I take it? A. Yes.

Q. Well, who is this doctor? A. He is a doctor.

Q. Is he a regular doctor? A. Yes.

Q. What we call, up in the country, a "pill doctor," a medical man? A. Yes, a medical man.

Q. A Russian? A. Yes.

Q. How long have you known him? A. I have known him about three years.

Q. You got acquainted with him after you came here to New York? A. Yes.

Q. And visited him? A. Yes.

Q. You lived at the same place? A. No.

Q. Where was he living when you visited him? A. Up town.

Q. Well, that is somewhat indefinite to us. A. I don't remember where he lived, but I think it was 85th street.

Q. How long since he has visited you? A. The last time, about the end of the last year.

Q. Well who made the application for this thousand dollar loan? A. I myself.

Q. How much money did you have on deposit in the banks here the day he let you have that money? A. I don't remember.

Q. At least \$19,000, did you not? A. What?

Q. You had at least \$19,000 in cash on deposit in the bank on the day he made that loan to you? A. No, I don't think it was as much.

Q. Well \$15,000? A. Where did you get this figure from, Mr. Newton?

Q. Well, having learned something about declining to answer, I accept one of your reasons. A. I don't understand your argument, Mr. Newton.

The Chairman.—Would you speak more clearly?

Q. Yes. I want to ask you if, on the day of the borrowing of this \$1,000, you did not have at least, to your credit in the banks in New York, \$15,000? A. No, I did not have it, otherwise I would not borrow this money.

Q. How much would you say was the least you had in the banks on the day you borrowed the \$1,000 from him? A. Maybe a couple of thousand.

Q. What was the necessity for borrowing from your friend, the doctor, \$1,000 if you had \$2,000? A. I had to pay salaries; I had to pay for printing of paper.

Q. Has there been a day since the receipt of that \$20,000 in March, 1919, when your bank balances here have not been more than \$10,000? A. Yes, on several occasions it was more than \$10,000.

Q. My question is if you will swear there is a day since that \$20,000 was deposited in March, 1919, when your daily balance in the banks here has been less than \$10,000? A. You are mistaken.

Q. No, I am asking you to swear. A. I never told you that I deposited \$20,000.

Q. No, I know you never did. I have not said you told me so. I am asking you to swear to the fact. A. What is that?

Q. I am asking you to swear to a fact. A. What?

Q. Well, what do you say was the least daily balance of cash that you had in the banks of New York since March, 1919? A. The least?

Q. Yes. A. About \$100.

Q. Did you have any in your pocket at the time when your bank account ran down to \$100? A. No, I had not, otherwise I would have deposited it in the bank.

Q. Did you have any in your safe deposit box? A. I had not, otherwise I would have deposited it at the bank.

Q. Did you get this \$1,000 from the doctor on the day that you deposited it to your credit in the People's National Bank of New York? A. Yes. At the time I had not enough money to pay my obligations; that is the reason why I borrowed this money.

Q. Now, do you know what the bank book will show as your balance of cash in the banks where you carry an account, on the 1st day of November, the day of the deposit of this \$1,000 that you say you got from the doctor? A. No, I don't remember.

Q. Will you swear it was not more than \$5,000? A. I think not.

Q. You think not? A. I think it was not more.

Q. That is as strong as you want to put it? A. Yes, sir.

Q. What other bank do you carry an account in? A. The State Bank.

Q. Do you carry any account in any other banks except the Public National Bank of New York and the State Bank? A. The Public National Bank of New York and the State Bank.

Q. Those are the only two you have had any banking experience with by way of deposits? A. The Guaranty Trust Company, too.

Q. That was some time ago? A. Yes.

Q. I find a man here by the name of Adams. Who is he? A. He is the manager of my technical department.

Q. How much money have you paid Adams in November? A. I think about \$2,000.

Q. Does he get \$2,000 a month? A. No, he is not getting so much. It is his expenses.

Q. On the 12th of November did you make a deposit of cash in the Public National Bank of New York? A. Maybe; I don't remember.

Q. Was that made by you? A. Yes.

Q. Where did you get it? Where did you get this \$1,000 from? A. I had in my hands some money.

Q. Well, two days before you drew out \$1,000. Am I right about it? A. Yes; that looks right (indicating in check book).

Q. Now, you told me, if I understood you correctly, that you thought that at the time you got this \$1,000 from the doctor, upon the 1st of November, that your bank balance was down to \$100. Did I understand you correctly? A. No; sometimes it reached \$100.

Q. Well, how much was it on the day you got the \$1,000 from the doctor? A. I don't remember.

Q. Well, what is your best recollection? A. Maybe a couple of thousand.

Q. If you had \$2,000 in the bank would you be apt to go out and borrow a thousand? A. Yes, if I had to pay more than \$3,000.

Q. Am I correct in the conclusion that your bank balance in this bank on November 1st was \$2,443.02? A. (Examining check book.) Yes, probably it was.

Q. Whose figures are those that are crossed out, \$18,696.31? A. That means that it was deposited — the red ink — adjusting the totals — it does not mean that it was actually in the bank.

Q. Well, now, without any apparent deposit at all, from then to the 3d of November, your bank balance shows \$3,286.96, does it not? A. No, it does not. It is simply the sum of all these totals. It was the totals of all checks.

Q. Well, then, there is no way of showing from this book? A. Yes, the difference.

Q. You carry the total deposits on one side and the withdrawals on the other side? A. Yes, on the other side.

Q. Then I have got you to say something that you did not mean, which I did not intend to do. I had you tell me that your balance on November 1st was \$2,443.02. A. No, it was not.

Q. Your balance on that day was \$3,848.42? A. Minus \$2,443.02.

Q. What is that \$2,443.02? A. Here?

Q. Yes, the addition of those sums. A. Yes.

Q. On November 6th I find the withdrawal by yourself personally of a thousand dollars; am I right about that? A. Yes.

Q. Do you remember what you did with that money? A. As far as I remember, I paid part of my debts and part for my own personal expenses.

Q. Do you know a gentleman in this city by the name of Dudley Field Malone? A. Yes, I know him.

Q. Friend of yours? A. Not a friend.

Q. Ever employ him for anything? A. Yes, I did.

Q. What did you hire him to do? A. To help me in a commercial transaction.

Q. What one? A. I purchased some boots through his intermediary and I wanted to organize for the shipping of goods into Soviet Russia from here.

Q. Did you get the boots? A. Yes, I did.

Q. Did you get them shipped? A. No.

Q. Whom did you buy the boots from? A. I forget the name of the company.

Q. Now, was Mr. Malone employed to assist you in the purchase of the boots or in using his influence to get permission to ship them to Russia? A. I used not his influence but his help to arrange for shipment of goods for the amount of nine million dollars into Russia.

Q. You made a contract for the boots? A. It was not boots; all kinds of stuff, I made contracts, yes.

Q. How many different companies? A. Two or three.

Q. And boots was one item? A. Yes.

Q. What other article of commerce? A. Meats and canned goods.

Q. The total amount you say was nine million? A. Nine and a half million dollars.

Q. Did you pay anything on it? A. No; to be paid in Petrograd.

Q. That is, you put the burden on the companies from which you contracted to make the delivery? A. Yes.

Q. How was Malone going to help you? A. Malone was my counsel.

Q. Your counsel? A. Yes.

Q. He was one of the lawyers that you did not mention this morning when I asked you? A. It was only for this particular thing.

Q. What did you pay him for what he did? A. One thousand dollars.

Q. That was by check on the 12th of September, this last September, 1919? A. I think it was.

Q. I show you the item. A. Yes, it was.

Q. Now, do you know as a fact that Mr. Malone has been speaking,—he is an orator, isn't he? A. Yes, I know.

Q. Has been speaking for the recognition of Soviet Russia? A. Yes, he has.

Q. Wasn't this thousand dollars paid to him for that service? A. No, Mr. Newton. I would prefer Mr. Malone to answer this himself, but anyhow it was not expressly mentioned.

Q. Well, did he make speeches? A. Not in my behalf.

Q. In the interest of the recognition of Soviet Russia before he got this thousand? A. Yes, on many occasions he made them.

Q. Has he ever made any since he got that? A. I don't remember any.

Q. The last time I think you and I had a little visit was the way the search warrant was issued and the authorities or somebody took possession of some of the effects of your office? A. Yes, sir.

Q. I have forgotten when that was. A. Twelfth of June.

Q. Following that, what I think you termed a raid? A. Yes.

Q. You made some public addresses? A. Yes.

Q. In which you criticized the action of the authorities and the Committee in that transaction? A. I did not criticize; I simply stated publicly what my duties are here and what I am doing here.

Q. Whether it be criticism or not, at that time and on the same platform Mr. Malone spoke with you in relation to the subject, didn't he? A. No, I don't think he spoke with me.

Q. Are you sure about it? A. I am almost sure about it.

Q. Has he ever spoken from the same platform with you or not of these problems? A. No, I never spoke with him.

Q. And if I have received such information of that, it is not accurate? A. No, it is not accurate.

By Mr. Stevenson:

Q. Do you remember a certain meeting in Madison Square Garden in June? A. After the raid, yes.

Q. Did Mr. Malone speak at that time? A. No.

Mr. Stevenson.—I have the record.

By the Attorney-General:

Q. Do you know whether or not Mr. Malone has organized a corporation for the purpose of dealing with Soviet Russia? A. No, not as far as I know.

Q. You have had no communication with him on any such subject as that? A. I discussed it with him on several occasions, the shipment of goods to Russia, and his ability to organize something of this sort, but that's all.

Q. Did you know he had made an effort or had actually organized such company or corporation? A. No.

Q. Did you have a meeting on the same subject at the Waldorf-Astoria? A. With whom?

Q. A meeting in which you were present at any rate? A. I was on many occasions at the Waldorf-Astoria.

Q. On this subject of organizing a company to deal with Soviet Russia? A. No, I was not present.

Q. Never been present at any meeting in which that subject was discussed? A. In the Waldorf-Astoria, never been present.

Q. If there has been any meeting there to discuss such a subject, you know nothing about it? A. No.

Q. Are Mr. Adams' duties confined to your New York office? A. To the technical department of my bureau.

Q. Are all of the things he does done here in this city, or does he go about in other places? A. No, he is staying here.

Q. Have you any branches of your office? A. In Detroit.

Q. Who is in charge of the Detroit office? A. Dr. Rovin.

Q. What is his first name? A. I don't remember.

Q. Is he a Russian? A. Of Russian extraction.

Q. Is he a citizen? A. Yes, he is a citizen.

Q. Naturalized citizen? A. Yes.

Q. Where did you get acquainted with him? A. In Detroit.

Q. Has that been his home for some time? A. Yes.

Q. Is he a medical man? A. Yes, he is a bacteriologist.

Q. How long have you had a branch office in Detroit? A. About four or five months.

Q. How many employees in that office? A. Only one, I think. It is quite a small office.

Q. Does the doctor get a salary? A. No, he does not.

Q. Are the office expenses paid from your office here? A. Yes.

Q. And the other employees, are the employees whoever they are, outside of the doctor paid from your office here? A. Paid from my office here.

Q. Paid direct by you? A. Yes.

Q. By check? A. Yes.

Q. What is the necessity for your office in Detroit? A. My idea was to interest the Detroit manufacturers in a trade with Soviet Russia. I intended to place an order for fifty million dollars with Detroit manufacturers.

The Chairman.—What kind.

The Witness.—For motor cars and tractors.

Q. You haven't placed any such contract? A. Yes, I have placed some for a small amount.

Q. With whom? A. I don't remember the name of the firms, but I negotiated with the Ford Motor Company and with several others.

Q. You have negotiated but you haven't actually bought anything, have you? A. No.

Q. And you haven't actually bought a dollar's worth of any product at all? A. Yes, I did.

Q. Tell me what you have actually bought and paid for? A. I bought for about ten and a half thousand dollars rubber boots.

Q. Where are they? A. Stored here in New York.

Q. Paid for? A. Paid for.

Q. Whom did you buy those from? A. I don't remember the name of the firm, but from the checks you will find out, Mr. Newton.

Q. You probably got a receipt in your papers? A. Yes.

Q. Will you bring me that? A. Yes.

Q. When did you make the purchase; I suppose the receipts will show, probably? A. Yes, it will show.

Q. But you have known all the time that under present conditions it was impossible for you to ship or deliver to Russia any single article? A. At the time I did make this purchase I had hoped to send a ship.

Q. Yes, you had hoped but you have known all the time that you could not actually make a delivery, didn't you. A. Certainly. That is the reason I could not buy for larger amounts.

Q. Now, you say you opened your Detroit office for the purpose of interesting the manufacturers up there? A. Yes.

Q. Was there any purpose in putting at the head of it a doctor? A. No, but he is a very capable man.

Q. He is a lecturer, isn't he? A. Yes, he lectures sometimes.

Q. Weren't you more interested in having a lecturer who would expound your country's rights than you were in making purchases of commodities that were manufactured in Detroit? A. I was not interested in his being a lecturer, but I was interested in his being first of all a capable man who will handle this job thoroughly, and so he did.

Q. He had no special influence with any shipping interests, did he? A. No, but he had quite an interest in Detroit, people in Detroit knew him.

Q. Didn't you think that the employment of this doctor there would give a little standing in the City of Detroit to the Soviet Government? A. Just to the contrary, Mr. Newton.

Q. What? A. Just to the contrary. He made quite a good show in Detroit.

Q. I am afraid you don't understand me; wasn't your purpose in selecting the doctor to take charge of the Detroit office to interest the people and get some influence there favorable to your Soviet Government? A. Well, it is my intention always to interest as many people as possible.

Q. I have only made it now as far as the doctor is concerned in Detroit; that was your purpose, wasn't it? A. Oh, yes; to a certain extent it was.

Q. Did you ever borrow any money from Dr. Mislig but once? A. Twice; once \$500 and another time a thousand dollars.

Q. When did you borrow the \$500? A. I could not remember the exact date; maybe a month or two ago.

Q. Ever paid him anything excepting the \$500. A. No, not yet, it is still due.

Q. Did you ever give him a check for any sum? A. Yes, I think as far as I remember, I think I gave him a check for \$500.

Q. You never owed him up to this 1st of November any sum beyond \$500, did you? A. Well, Mr. Newton, I really don't remember but I owe him some money. The dates I don't remember. From these check books you will see exactly how the matter stands.

Q. Would it be possible that you had borrowed money from the doctor and had forgotten it? A. No, not at all.

Q. Would it be possible that you could be mistaken several hundred dollars in the amount? A. No, it could not be. He will remind me.

Q. He will? A. Yes.

Q. I am going to in a minute — your recollection as you state it here now is that before the 1st of November the only money transaction you had with the doctor was the borrowing of \$500? A. No, borrowing from him a thousand dollars and again five hundred dollars. I paid him back five hundred dollars?

Mr. Stevenson.—What is this doctor's first name?

The Witness.—I don't know.

Q. Now, there is your thousand dollars on the 3d of November, isn't there? A. Yes.

Q. So you were mistaken when you thought that it was five hundred? A. No, you were mistaken. I told you that I paid him back \$500.

Q. I was not talking about that, I was asking how much you received from him. You told me a thousand dollars at one time and five hundred at another, and those were the only two items you had ever borrowed from him. Now, am I right or wrong about that? A. I owe him \$1,500 altogether. That I remember exactly. I paid him back —

Q. That don't quite answer my inquiry. You had \$1,500 from him all told and you have paid him \$500. A. I still owe him \$1,500. When I took it and in what amounts I don't remember.

Q. Now, let's see if we can clear our recollection — A. You can see it from the check book.

Q. I understand that but I want to get your recollection; I want to see if you are as good a man as I think you are; now you got a thousand dollars from him on the 3d of November? A. Yes.

Q. Was that the last money you borrowed from him? A. Last money I borrowed from him.

Q. And you have paid him in some form or another \$500 since that time? A. I think before that time.

Q. You think before that time? A. I think before that time.

Q. So when you looked through these check books and picked out a thousand dollars that came to you personally — A. It was a mistake.

Q. You think you are mistaken about that? A. I think I am mistaken.

Q. Now, how much money had you borrowed of the doctor before this 3d day of November, 1919? A. I think \$1,500.

Q. All told, \$1,500 before? A. Before.

Q. You keep raising the ante all the time. A. One second. I owe him, as I told you on several occasions \$1,500. I paid him I think a thousand dollars back from a previous loan I made from him so it means I paid altogether about \$2,500, paid him back \$1,000, so I still owe him \$1,500.

Q. When did you pay the thousand dollars? A. I don't remember.

Q. No book account of it? A. Yes, it must be here.

Q. No record of it? A. Yes, it must be in the check book.

By the Attorney-General:

Q. Well, have you any other record or any accounting of the financial transaction between you and the doctor except as shown by the check books? A. Nothing, only these checks.

Q. Do you know whether the doctor has any record or not other than this? A. I don't know what kind of records he has.

Q. How did he let you have this money, by checks or cash? A. Checks, I think.

Q. Where did you cash it? A. In my bank.

Q. Now I call your attention to an item in your check book of September 25, 1919, M. D. Mislig, \$1,000? A. Yes, from a loan of \$1,500.

Q. And now it comes to memory? A. Now it comes to my memory; I had a loan from him of \$1,500. Subsequently I paid him \$1,000 back, and on a second occasion I asked him again to give me \$1,000, so I owed him \$1,500.

Q. Do these initials refresh your recollection as to his name? A. I think —

Q. M. D.? A. M. D. is a medical doctor.

Q. The M. D. is not meant for his actual initials? A. No.

Q. Now you stated to me that there were hundreds of people who were willing to make loans to you of any sums into thousands of dollars; you volunteered that statement, didn't you? A. Yes, sir, I did.

Q. And you meant it? A. I meant it, sir.

Q. Have you actually borrowed other sums — A. No, I did not.

Q. Whom have you in mind now who has offered to lend you sums of money running into hundreds or thousands of dollars? A. I mean generally, that I have so many friends here who write me very nice letters and promise me every kind of assistance; I don't know whether or not they mean financial assistance, but nobody offered me any money and I did not ask it because I was well provided with money.

Q. Have you any objection to giving the Committee here the name of some of these people who made these generous offers? A. Nobody made me offers of money.

Q. No, but they wrote you letters which made you believe that they were willing to back you financially? A. Well, I have thousands of letters of this kind, Mr. Newton.

Q. Well, I don't want all of them, but the names of a few who have been that generous with you? A. After this so-called raid of the 12th of June, you had many of my letters, Mr. Newton, and from those letters you could see how the sentiment is. I did not mention that they offered me specifically money, but I am sure if I needed money I will get money.

Q. Well, I am afraid that these young men sitting down here will quote you as having said that there were large numbers of people who will lend you money running into the thousands of dollars. A. I did not say so, and I said, I am sure that if I needed money I can get thousands of people to help me, but I don't need any money.

Q. Well, then, if you said anything or volunteered any information that there were a large number of people who had offered or suggested that they were ready to finance your proposition to the extent of hundreds or thousands of dollars, you did not mean it? A. No, no, no, I did not say so, Mr. Newton. I repeat again, as I did on previous occasions, that nobody offered me money or financial assistance, but many people expressed sympathy to a great extent.

Q. Well, that sympathy was expressed toward Russia to you?  
A. Certainly not to me personally.

Q. And you did not mean to be understood in any way in your answer to me, or your statement made to me, that there was any particular person who in any way offered to put up a dollar, only this one doctor, that you borrowed \$2,500 from? A. Yes.

Q. So if you did say any such thing you did not quite mean it?  
A. No, I did not say it.

Q. Well, you say now, if you did — my recollection is a little different from yours, though not much — you did not mean to be understood that there are any such people who actually suggested that they were ready with their money to help you with money?  
A. No, I did not say it.

Q. Well, I say if you did say it you did not understand it in that way? A. Yes.

Assemblyman McElligott.— Mr. Witness, do you recall a Mr. Sanderson as a contributor towards your cause?

The Witness.— No, I do not.

Assemblyman McElligott.— Do you know whether there might be such a person among those who contributed money for the purpose of your work?

The Witness.— Mr. Sanderson, you say? No, I don't recall him.

Assemblyman McElligott.— You don't recall the name?

The Witness.— No.

Assemblyman McElligott.— Is it possible that a man by the name of Sanderson could have contributed in any way without you knowing it?

The Witness.— I don't think it is possible.

Q. You know the names of all who have given you anything at all toward your work? A. Certainly, yes.

Q. Have you offered to give the Attorney-General a list of those who have helped you in your work? A. Nobody helped me financially.

Q. Nobody helped you financially? A. Nobody.

Q. Did you ever receive any money from any source whatever?  
A. Except what my check book shows.

Q. Well, your check book shows that you deposited money from time to time. A. It shows also if I get money from other sources, it shows clearly wherefrom I am getting it.

Q. But your check book shows that at certain times you deposited certain sums of money, doesn't it? A. Yes.

Q. Now that money came from your government? A. Yes.

Q. And only from your government? A. Yes.

Q. It never came from anybody here in the United States? A. No, never.

Q. How did you receive your money, did you receive it by remittance or by cash? A. In cash.

Q. From your home government? A. Yes.

The Chairman.— That appears.

By Mr. Stevenson:

Q. Mr. Martens, you were asked by the Attorney-General whether you had issued any passports to anybody; what was your reply? A. I never issued passports.

Q. Well, instead of issuing passports, has it been your custom to give letters to persons wanting to enter Soviet Russia? A. Well, sometimes, occasionally I have given letters.

Q. You have given letters to facilitate certain persons leaving this country to enter Soviet Russia, have you not? A. Yes, sir.

Q. How many such letters have you issued? A. Maybe half a dozen.

Q. Not more? A. No, not more.

Q. There is to be a meeting of the Third International shortly in Moscow, is there not? A. Not as far as I know.

Q. Are you sure of that? A. Yes.

Q. Well, haven't you as a matter of fact, given letters of introduction to such persons leaving this country as delegates to the Third International? A. I never have.

Q. Are you sure of that? A. Absolutely.

Q. Who is Comrade Minna J. Dunn? A. Minna J. Dunn? Well, as far as I remember, I see a photographic copy of a letter I issued to a woman by the name of Dunn — sometimes people come to us telling me they are going to Soviet Russia, showing me their passports, and I am giving them a letter in place of a vise of the passport; so on several occasions, I think maybe five or six times, I did it.

Q. You would only give it in special instances? A. No, to anybody who is going to Soviet Russia.

Q. Well, did you give such a letter to Mr. John Reed when he left here? A. No, I did not.

Q. Are you sure of that? A. Absolutely sure.

Q. Did he ever ask you for one. A. No, he never asked for that.

Q. Well, you are perfectly sure? A. Yes, perfectly sure.

Q. You have not been informed that there is to be a meeting of the Third International in Moscow? A. No, I think you are mistaken. I did not know anything about it. There was a meeting in March —

Q. Yes, but a convention — A. I don't know anything about it.

Q. You have not been informed by your home government to that effect? A. No.

Q. Well, how many agents have you got that you employ for carrying on your correspondence with other countries? A. Well, you may ask differently, how many agents the Soviet Russian Government has — they have a number, I suppose a big number.

Q. Well, how many are attached to your office? A. Well, nobody.

Q. Isn't it a fact you issue credentials to your agents? A. No.

Q. You have never issued any credentials to your agents? A. What kind? I issued credentials to some people whom I sent to Detroit, or other places.

Q. But those you are sending outside of the country? A. Only in the form of letters telling who they are and what places they are going to.

Q. No other form? A. No.

Q. Just simply a letter as identifying the person as being your agent? A. Yes.

Q. Well, how many such letters have you issued? A. Well, I don't remember, three or four or five, I do not remember.

Q. Only three or four or five persons that are attached to your office? A. They are not attached to my office; Mr. Stevenson; nobody is attached to my office.

By Mr. Berger:

Q. What is the right name of this Minna J. Dunn? A. I don't know.

Q. You know her? A. I recollect giving her a vise and her name I first saw on her passport when she showed it to me.

Q. Do you know her by any other name? A. No.

Q. Do you know any of her friends? A. No.

Q. Who is Comrade Strom? A. Where is he?

Q. At Stockholm. A. A representative of the Soviet government in Stockholm.

By Mr. Stevenson:

Q. So anybody wishing to enter Russia, you give a letter of introduction to Comrade Strom? That is the idea? A. Yes.

Q. And if you want to facilitate a person's passage you recommend him or her to Comrade Strom? A. Yes.

Q. And in this case of Minna Dunn, you did that, didn't you? A. As far as I remember, I did.

Q. Well, do these agents to whom you have issued these letters come into communication with the Soviet government? A. No. First of all, this Miss Dunn was not my agent. I deny that absolutely.

Q. I did not say that. I refer to these letters you describe as having been given to your agents, do they carry your communications to the Soviet government? A. Well, it is the same question about my communications with Russia; I decline to answer.

By Mr. Stevenson:

Q. On what ground? A. On the same ground.

Q. I wish you would state it again. A. I consider my communications with the Soviet government as privileged, and on this ground I decline to give any information about my messages or communications.

Q. Do you keep copies of your official communications with the Soviet government? A. Yes.

Q. Do you keep the originals of your communications from the Soviet government? A. Yes, I do.

Q. Do you keep them in your office? A. No, I do not.

Q. You do not keep them in your office? A. No.

Q. Do you keep them in your home? A. No, I do not.

Q. Where do you keep them? A. In a private place.

Q. Where is that private place. A. I cannot disclose it.

Mr. Berger.— Why?

The Witness.— On the same grounds.

Mr. Berger.— State the grounds specifically on the record.

The Witness.—I regard my communications with Russia as privileged and I decline to answer everything concerning those communications and those documents.

By Mr. Stevenson:

Q. Well now, in drawing up the organization of your bureau, you had a paragraph which stated that secret documents should be delivered from hand to hand. What did that refer to? A. Well, we have a very beautiful organization in our office; so we had in mind some correspondence with the State Department that some people should not see; and we had in our constitution a paragraph telling how to handle these kind of documents so that nobody outside of the staff would see them, with the exception of people who were handling this money. .

Q. Well then, you had no secret documents? A. No, not at all.

Q. But at the same time, these official documents, you do not even bring to your office, do you? A. Certainly not.

Q. Well then, they are secret documents, are they not? A. Well, I suppose they are secret documents.

Q. Is there anything in any of those documents that you are afraid might be distorted? A. I am not afraid a bit, Mr. Stevenson; but I would regard it as an insult to my government and myself if I would show you these documents, and without instructions from my government I would not show them.

Q. Do you keep any of those documents on your person? A. No, I do not.

Q. When you were last examined you stated that you kept those documents at your home, did you not? Did you change them to some other place because you had told us you had kept them at your home? A. Yes, I did, sir.

Q. So that you have changed the place of keeping those documents since you were previously examined, is that correct? A. I had these documents for a certain time on my own person, and then I filed them for safekeeping.

Q. Do you keep them in a safe deposit box in the Equitable Trust Company? A. No, I do not.

Q. Did you take your money out of your safe deposit box in the Equitable Trust Company subsequent to the date of your examination here? A. No, before that.

Q. Did you not tell us at that time that you had moneys that were not deposited in the bank, that you had in your safe deposit box? A. I had some Liberty bonds, not cash money.

Q. Well, have you taken those from the bank? A. Yes.

Q. You do not keep them in the safe deposit box any more?

A. No, I keep some.

Q. As a matter of fact, you have not been able to enter into any substantial commercial transactions, have you, owing to the conditions of transportation here? A. Oh, yes; I entered into quite substantial commercial relations with people, and quite big people, here in America.

Q. Well, have they actually signed contracts with you? A. Some of them have actually signed contracts.

Q. How many of them have actually signed contracts? A. I think about a dozen of them, to the amount of twenty million dollars.

Q. Would you give us the names of those firms? A. If you wish, I can give you, tomorrow, a full list.

Q. All right, I wish you would, please. As a matter of fact, one of your chief functions here is to seek the recognition of the Soviet government, is it not? A. Yes.

Q. And it is part of your office business to carry on propaganda looking to the recognition of the government, is it not? A. Yes.

Q. And is that what the major portion of your force is engaged in doing at the present time? A. No, not the major portion; I should say about 25 per cent of the people are engaged in this kind of work.

Q. Well, did you not tell me previously that about 25 per cent of your work was propaganda looking toward the recognition of the Soviet government? A. Well, what do you call "propaganda"? I mean just now the publicity work of our bureau engaged about 25 per cent—publicity work—which consists of publication of our papers under the name of "Soviet Russia" and the matter of attending to statements of the press, and so forth.

Q. Well, is not the purpose of the "Soviet Russia" to impress upon the American people that the Soviet form of government is a satisfactory and excellent form of government. A. Yes, it is.

Q. And do not a large number of representatives or men in your office lecture on the lecture platforms to that effect? A. Not quite to that effect. The aims of the publications are, first of all, not propaganda of the Soviet form of government, but the spreading of the truth about Russia, to the counteraction of misrepresentations and false reports about Russian conditions.

Q. You yourself have lectured, have you not on the Russian conditions? A. Oh, yes, I did.

Q. You were going to speak, were you not, at a meeting of the Communist party on Monday, the 10th? A. No.

Q. Well, have you accepted? A. Monday, the 10th?

Q. Of November? A. Yes, I had accepted.

Q. And were you going to describe the conditions of Soviet Russia at that meeting? A. Yes.

Q. And your purpose was to enlist the interest of the audience in Soviet Russia, was it not? A. Simply of the present regime in Russia.

Mr. Stevenson.— That is all.

The Attorney-General.— Mr. Chairman, I move that we adjourn until 10:30 tomorrow morning.

The Chairman.— The Committee stands adjourned until 10:30 tomorrow morning.

(Whereupon at 4:35 p. m. on Tuesday, November 25th 1919, an adjournment was taken until 10:30 a. m., Wednesday, November 26th, 1919.)

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONARY ACTIVITIES**

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CITY HALL, CITY OF NEW YORK,  
WEDNESDAY, NOV. 26, 1919, 10:30 A. M.

*Present:*

Senator Walters,  
Senator Mullan,  
Assemblyman Martin (Vice-Chairman),  
Assemblyman Pellet,  
Assemblyman Jenks,  
Assemblyman McElligott,  
Senator Boylan,  
Assemblyman Burr.

*Appearances:*

Hon. Charles D. Newton, Attorney-General,  
Hon. Samuel A. Berger, Deputy Attorney-General,  
Archibald E. Stevenson, Esq., Associate Counsel.  
  
Mr. Charles A. Hoteling, Sergeant-at-Arms.

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LUDWIG C. A. K. MARTENS resumed the stand:

The Witness.—Mr. Chairman, permit me to make a request to adjourn the present hearing until Monday. I have arranged for some conferences with my lawyers and want to discuss the whole situation more thoroughly and we need time. I could not do it yesterday and could not do it today. So probably Friday and Saturday would be sufficient for me to go over the whole ground again and maybe if you will postpone the hearing until Monday it will suit my purposes.

The Chairman.—I should have to take that up with the Committee, Mr. Martens. Monday is a very inconvenient day for the people from Up-State. I suggest in view of the request of Mr. Martens that we go into executive session to discuss the request. I should prefer Wednesday or Thursday.

The Attorney-General.— Would the 4th of December be as convenient to you as Monday?

The Witness.— The fourth is all right.

The Attorney-General.— That would give you three more days if the Committee considers your request favorably. I am doing that so that we will have that date in mind. Some of the members of the Committee are busy men and they have appointments for early in the week.

The Witness.— All right.

(The Committee then went into executive session.)

(After executive session the following occurred.)

The Chairman.— Mr. Martens, the Committee have been very anxious to get this work along as fast as possible, and we hoped to conclude with you as near as possible to-day. You have come here and made a very respectful and most sincere request for an adjournment. We cannot, owing to our engagements, adjourn until next Monday, but I think it is the sense of the entire Committee to be absolutely fair to you and to everyone else who comes before us, and if it is agreeable to you and you desire, your examination can stand adjourned until the 4th of December at 10:30 o'clock, and you will be present?

The Witness.— Yes, sir.

The Attorney-General.— That is a week from to-morrow.

The Witness.— The 4th of December.

The Chairman.— Is that agreeable to you?

The Witness.— Yes, sir.

The Chairman.— Then we will suspend your examination until December 4th, at 10:30 A. M.

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONS ACTIVITIES**

CITY HALL, CITY OF NEW YORK,  
THURSDAY, *December 4, 1919.*

The Committee met pursuant to adjournment.

***Present:***

Assemblyman Martin (Vice-Chairman),  
Senator Mullan,  
Senator Boylan,  
Assemblyman Pellet,  
Assemblyman Burr,  
Assemblyman McElligott,  
Senator Walters.

***Appearances:***

Hon. Charles D. Newton, Attorney-General,  
Hon. Samuel E. Berger, Deputy Attorney-General,  
Archibald E. Stevenson, Esq., Associate Counsel,  
Hon. Frederick R. Rich, Special Deputy Attorney-General,  
Mr. Charles A. Hotaling, Sergeant-at-Arms.

(The Committee went into executive session.)

**The Chairman.**—The Attorney-General has a statement to make in relation to the result of the conference with the Committee.

**Mr. Berger.**—Mr. Chairman, I appeared before Justice Greenbaum, at chambers, at 10:15 this morning, as did also Dudley Field Malone and Charles Recht, attorneys for L. C. A. K. Martens. Mr. Justice Greenbaum stated that he had not yet decided the pending application and desired to thoroughly go into the matter before rendering his opinion. He granted no temporary stay and this Committee is not stayed at this time from further examining the witness Martens. In view of the fact, however,

the motion is not yet decided, the Attorney-General feels that it is ethically proper to suspend the examination of the witness Martens until Mr. Justice Greenbaum shall have decided the motion now pending before him. I understand that His Honor will probably decide the motion on Monday. I, therefore, suggest, if it meet with the approval of the Chairman of the Committee, that some day next week be fixed for the examination of the witness Martens, but that we proceed this morning with such other witnesses as we have available at this time.

The Chairman.— Well, that seems to be the consensus of opinion of the Committee, that we follow the suggestions of the Attorney-General with regard to the witness Martens, and that his examination be put down for the 11th at 10:30, if that is agreeable to the Committee. I think we all agree on that; so the further examination of the witness Martens is set down for Thursday, December 11th, at 10:30 A. M. Is Mr. Martens here?

Mr. Martens.— Yes.

The Chairman.— Well you please bear that in mind, Mr. Martens, Thursday, December 11th, at 10:30?

We will continue the examination of the doctor, if he is here. Dr. Mislig, you may sit here.

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONS ACTIVITIES**

CITY HALL, CITY OF NEW YORK,

THURSDAY, *December 11, 1919.*

The Committee met pursuant to recess (11:15 A. M.)

***Present:***

Assemblyman Martin, Vice-Chairman;  
Senator Mullan,  
Assemblyman Pellett,  
Senator Walters,  
Assemblyman McElligott,  
Assemblyman Burr.

***Appearances:***

Hon. Charles D. Newton, Attorney-General;  
Hon. Samuel A. Berger, Deputy Attorney-General;  
Archibald E. Stevenson, Esq., Associate Counsel.

Mr. Charles A. Hotaling, Sergeant-at-Arms.

The Chairman.— The Committee will convene. Are you ready now, Mr. Berger?

Mr. Berger.— Yes.

The Chairman.—Are you ready, General?

The Attorney-General.— Yes.

The Chairman.— Is Mr. Martens here?

Assemblyman Pellett.— Yes, he is here.

LUDWIG C. A. K. MARTENS, having been previously sworn, resumed the stand and testified as follows:

The Chairman.— Mr. Martens, you have already been sworn?

The Witness.— Yes.

The Chairman.— Well, proceed.

Mr. Berger.— I offer in evidence a copy of the opinion of Mr. Justice Greenbaum, dated December 9, 1919, this being a reprint.

The Chairman.— Received.

(Copy of opinion of Mr. Justice Greenbaum, dated December 9, 1919, referred to, received in evidence and marked Exhibit No. 346 of this date.)

The exhibit is as follows:

“Matter of Martens.— The application above mentioned moves on its own affidavit for an order to cancel a subpoena duces tecum issued by a joint Legislative Committee and heretofore served upon him and to restrain and enjoin that committee ‘from issuing any other or further subpoena, order or direction requiring the said L. C. A. K. Martens to appear before that Committee or the Attorney-General of the State of New York, or any other person or body, and to produce any books, papers, documents and correspondence with the government of the Russian Socialistic Federal Soviet Republic, or to be examined concerning the same and for such further and other relief as the court may deem proper.’ The moving papers contain a copy of a resolution adopted by the Legislature of the State of New York providing for the appointment of a joint committee of the Senate and Assembly to investigate the scope, tendencies and ramifications of seditious activities in the community desiring to accomplish the overthrow of the government of this State, and to report the result of its investigations to the Legislature, to the end that it may enact ‘such legislation as may be necessary to protect the government of the State.’ The resolution empowers the Committee inter alia ‘to compel the attendance of witnesses and the production of books and papers \* \* \* and shall have power to sit anywhere within the State, and shall otherwise have all the powers of a legislative committee, as provided in the legislative law, including the adoption of rules for the conduct of these proceedings.’ The motion papers are also accompanied with a copy of the subpoena duces tecum served upon the applicant, in which it is expressly stated that the applicant was called as a witness

'to testify and give evidence in a certain investigation now pending of seditious activities within the State of New York.' The respondent, the Legislative Committee, through its counsel, challenges the right of the applicant to apply to this court in a summary manner by affidavit either to set aside the subpoena or to grant the injunction as asked for. The attention of the court has not been called by the applicant to any authority in the code of civil procedure or elsewhere which would entitle him to the relief sought by means of a summary motion upon his affidavit. It does not appear that there is any action pending in this court by the applicant against the committee, or that this proceeding is made pursuant to any provision of the code of civil procedure. The resolution expressly empowers the Legislative Committee to issue subpoenas. Section 854 of the Code also authorizes the issuance of a subpoena under the hand of the Chairman of the Committee, which appears to have been done in the matter under review. The subpoena by its terms shows that the purpose of the examination of the applicant was strictly in accordance with the scope of the inquiry which the Committee was empowered to conduct. The counsel for the applicant justifies the motion by reason of the provisions of section 867 of the code of civil procedure, and particularly that portion of it which provides as follows: 'At any time after service of such a subpoena or order the witness may obtain, upon such a notice as the judge, referee or other officer prescribes, an order relieving him wholly or partly from the obligations imposed upon him by the subpoena or the order for production, upon such terms as justice requires touching the inspection of the book or any portion thereof, or taking a copy thereof or extracts therefrom or otherwise.' A study of that section clearly indicates that it refers only to a trial or hearing pending in a court, in which case an order may be made by the judge or by a referee duly appointed in the cause, relieving the witness from the obligations imposed upon him by the subpoena, or to a special proceeding pending out of court before an officer, in which case such an order may be made by the officer or referee. Moreover, it will be observed that that section refers only to a 'book of account' and to no other papers. The motion must be denied. Settle order on notice.

"Van DeWeghe v. Director-General of Railroads; Twohill v. Markowitz; Lombardi v. Kalbach; Gottfried v. Same; Whittaker v. 42d St., &c., R'y; Pedersen v. Nelson (2); Obstgarten v. Friedman; York v. Third Ave. RR.; Kavanaugh v. Same; Gluck v. Union R'y; Elms v. Weinstein; Kruhl v. Dry Dock, &c., RR.; Caleb v. Third Ave. RR. (2); Calisse v. N. Y. R'ys; Crawford v. 42d St., &c., RR.; Kalbach v. Kalbach; Greene v. Director-General of Railroads; Brandt v. Union Ry."

By Mr. Stevenson:

Q. Mr. Martens, you have been sworn? A. Yes.

Q. After the November revolution of 1917, when the Russian Communist Party assumed control of the government, did they not allow the greatest freedom of speech to the press and in the Assembly in Russia? A. Yes, they did.

Q. And subsequent to that time, were there elections held for a Constituent Assembly? A. Yes.

Q. And were those elections held throughout the entire territory under the control of the Soviets? A. Yes.

Q. About how long a period was occupied in those campaigns for those elections? A. I think a couple of months.

Q. And were delegates chosen during those campaigns for members of the constituent assembly? A. Yes, they were.

Q. And what were the various parties that ran candidates for that assembly? A. The three main parties: One, so-called, the Bolsheviks; the other the Social Revolutionists; the other, the Mensheviks; and Constitutional Democrats — four parties.

Q. And what was the result of that election? What were the various proportions of delegates returned to that assembly? A. I don't remember exactly the figures. It was approximately 40 per cent Bolsheviks and about as many Social Revolutionists, and the rest for the other parties.

The Chairman.— Did you say 40 per cent Bolsheviks?

The Witness.— Yes, 40 per cent.

By Mr. Stevenson:

Q. So that the majority of that assembly constituted other than the Bolshevik representatives? A. Nobody constituted a majority.

Q. I mean a majority of the delegates were not Bolshevik representatives? A. Yes.

Q. Did that assembly ever meet? A. Yes.

Q. When did it meet? A. In December, 1917, I think.

Q. And where did it meet? A. Petrograd.

Q. And was that assembly permitted to sit? A. Until a certain time, yes.

Q. And then what was done to it? A. Well, then the Soviets demanded a revolutionary assembly and it was dissolved.

Q. It was dissolved? A. Yes.

The Attorney-General.—About when was that?

The Witness.—January, 1918, I think; it began in January, 1918.

The Attorney-General.—January, 1918?

The Witness.—Yes.

By Mr. Stevenson:

Q. After the dissolution of the Constituent Assembly, was the same freedom of speech allowed as had been allowed previous to that time? A. Yes.

Q. It was? A. Yes.

Q. When was the revolutionary tribunal of the press set up? A. It was set up after the beginning of the intervention.

Q. When was that? A. The summer of 1918.

Q. When was the revolutionary tribunal set up? A. Also the same time.

Q. And was that the time when the terror was instituted? A. It was the time when several of the people were assassinated and when an attempt was made to assassinate Lenine and the People's Commissar.

Q. And the purpose of those tribunals was to prosecute counter revolutionary activities? A. Exactly.

Q. And then a party agitating against the Soviets were constituted counter revolutionaries, were they? A. Yes, several parties; one of them was the Anarchists, constituted to overthrow the government was done by the Constitutional Democrats.

Q. Were they the "cadets?" A. Yes.

Q. So they were the principal parties that had been active in the campaign for the Constituent Assembly, were they not? A. Oh, no.

Q. Well, the Cadets you mentioned? A. The Cadets and Social Revolutionists.

Q. Those two parties were treated as counter revolutionists, were they not? A. Yes, and the Anarchists, too.

Q. When did you see Mr. Frank P. Walsh last? A. Frank P. Walsh, I saw about three weeks ago.

Q. And was at a conference between Mr. Walsh, Mr. Fitzpatrick and yourself? A. No, Mr. Fitzpatrick was not there.

Q. Are you sure? Was this conference at Mr. Walsh's office? A. No.

Q. Where did it take place? A. Oh, yes, I think it was at Mr. Walsh's office.

Q. Are you certain Mr. Fitzpatrick was not present? A. No, he was not.

Q. Well, who was present at the conference that you had with Mr. Frank P. Walsh? A. Well, Mr. Walsh himself and Mr. Nuorteva and I myself.

Q. Are you sure there was no one else present at that conference? A. Oh, Mr. Hourvich.

Q. Who else? A. No one else.

Q. No other man present? A. No, no.

Q. Well, where else did you meet Mr. Walsh besides his office? A. A couple of days before this conference I met him at his house.

Q. At what hotel did you have a conference with Mr. Walsh? A. I don't remember the name, it was somewhere in Park avenue.

Q. And who was present at that conference? A. We three.

Q. Just you three? A. Yes.

Q. What was the nature — what was the subject of the conference? A. I invited Mr. Walsh to participate, or to act as my counsel.

Q. And you are certain that Mr. John Fitzpatrick was not present at either of these conferences? A. I am certain.

Q. The only subject which you discussed with Mr. Walsh was whether he would be your counsel or not? A. Yes. If another person was present it was Mr. Recht. I forgot about him. Mr. Recht was present also.

Q. Are you sure there were not any other persons present? A. No, nobody else.

Q. Can you fix the date of that conference? A. I think it was around November 20th, I am not sure about the date, but somewhere around there.

Q. You are referring now to the conference at his office? A. His office and his home, because at his home, we were about two days before the conference at his office.

Q. So you would say one of these conferences was about the 18th of November? A. Yes, or one may have been the 20th of November, and the other about the 22nd of November.

Q. You have stated that one of the principal businesses of your office was to counteract the false impressions which are being given of Soviet Russia? A. Yes, sir.

Q. And how do you go about it? A. I don't understand your question, Mr. Stevenson.

Q. What methods do you employ? A. We are publishing a paper under the name of Soviet Russia. It is a weekly and consists of about 24 to 32 pages of information.

Q. And do you publish in that paper documents received from Russia? A. Yes, sometimes.

Q. And original articles by persons that you select to describe conditions in Russia? A. Yes, yes.

Q. What other methods do you employ? A. Well, that is the only method I am employing for this purpose.

Q. Well, you make addresses yourself on this subject? A. Well, very seldom; sometimes.

Q. Where have you recently addressed audiences on the subject of Soviet Russia? A. The last time I addressed was the 7th of November, here in New York.

Q. And before what organization? A. Public meetings arranged by the Community Labor Party.

Q. What other organization have you addressed? A. I was invited to speak at meetings of the Socialist Party.

Q. Were you invited to speak at meetings of the Communist Party? A. Yes, I was.

Q. Did you accept? A. Yes, I did accept.

Q. And you were prevented? A. The meeting was called off.

Q. That was after November 8th? A. November 9th, I think.

Q. Was it on a Sunday evening? A. No, I think it was on Monday.

Q. And where was that? A. Somewhere in Brooklyn, as far as I remember.

Q. What was the nature of your addresses? A. My addresses refer exclusively to conditions in Russia.

Q. And you describe the workings of the Soviet regime? A. Yes.

Q. Do members of your staff address meetings? A. Sometimes.

Q. Do they address meetings without your knowledge and consent? A. No, only with my knowledge and consent.

Q. So that any meetings which they address are approved by you? A. Yes.

Q. Had Mr. Nuorteva made any public addresses recently? A. Yes, he made some.

Q. Where? A. Here in New York.

Q. Well, he has made some addresses outside of New York, has he not? A. I think in Newark once, that's about all as far as I remember.

Q. Well, has he made any addresses in Pennsylvania recently? A. No.

Q. When did he return from Pennsylvania? A. I don't think he was ever—during the last few months he has not been in Pennsylvania.

Q. Not in Pennsylvania in the last few months? A. No.

Q. Who from your office has been in Pennsylvania in the last few months? A. Nobody.

Q. Nobody at all? A. Nobody at all.

Q. What other methods have you found useful to employ? A. For what purpose?

Q. For the propaganda of Soviet Russia? A. That is the only method, giving statements in the press also from time to time.

Q. Well, have you any correspondents in Washington? A. No.

Q. Or persons who act for you in Washington? A. From time to time I am sending myself some from our staff to Washington.

Q. Well, don't you have anybody in Washington to act for you? A. No.

Q. Well, do you know if any of your employees have anyone in Washington? A. Any of my employees having somebody in Washington?

Q. Yes. A. No.

Q. Have you ever made any request for information respecting persons who might be favorable to the recognition of Soviet Russia in Washington? A. Oh, certainly, I try to find out everything concerning the views of the United States Government.

Q. I see. Well, what methods have you employed to find that out? A. Often I send some of my staff to Washington.

Q. Whom do you usually send? A. On a couple of occasions I sent Mr. Clark and Mr. Nuorteva.

By the Attorney-General:

Q. You mean by the United States Government the members of Congress? A. Yes.

Q. And members of the State Department? A. Yes.

By Mr. Stevenson:

Q. You were saying whom you sent. A. Yes, sir; Mr. Nuorteva, Mr. Clark and Mr. Dudand.

Q. How do they go about ascertaining the sentiments of the various members? How do they go about to ascertain the sentiments of the various members of our government? A. Well, how it is usually done, they have friends, acquaintances, talks; that is the way the matter is gotten at.

Q. Well, are they charged with the duty of bringing information to any of these members of the government? A. No.

Q. They have never done so? A. We are sending to every member of the government, Congress and Senate, our publications and statements are regularly sent to every one of them.

Q. What would be your object in ascertaining the attitude of various representatives and officers of the government? A. You can easily imagine, Mr. Stevenson, it would interest us profoundly, every change of sentiment and every change of relation between all these questions, they interest us and we want to find out.

Q. Well, what do you do with the information which you gather respecting these matters? A. Well, we keep it to ourselves.

Q. Do you make reports to your home government? A. Oh, yes, certainly.

Q. And these reports contain statements of the sentiments of the various officers of our government? A. Yes.

Q. Are those reports detailed? A. More or less.

Q. And you keep copies of these reports? A. Yes, I do.

Q. And do the communications which you receive from your home government contain any references to your reports respecting these matters? A. Well, to a very small extent, but not much.

Q. And do they contain instructions for you to proceed? A. Well, I have more or less general powers to proceed as the situation allows.

Q. Has part of your work been to create sentiment here for the withdrawal of American troops from Russia? A. Partly for

the lifting of the blockade, recognition of the Soviet government, and as a result of it the withdrawal of troops from Russia.

By Mr. Stevenson:

Q. Does your commercial department suggest to business men to urge the recognition of Soviet Russia? A. No, our commercial department suggests to business men to ask the State Department for export licenses.

Q. But it is never hinted to any of your business correspondents that they should urge the recognition of Soviet Russia? A. No. How could they do it?

By Mr. Berger:

Q. Mr. Martens, I believe you stated at an earlier hearing that you were interested solely in the troubles of citizens of Russia in this country; is that right? A. Yes, sir.

Q. And you are not particularly concerned with the troubles or woes of parties who are not citizens? A. No, not at all.

Q. Well, then, will you kindly explain your conference with Mr. Larkin yesterday? A. Who is Mr. Larkin —

Q. You know Mr. Larkin, do you not? A. Yes.

Q. Will you tell the Committee whether your conference with him had any connection with the indictment for criminal anarchy? A. Not the slightest.

Q. Will you tell us what it was? A. He brought one of his friends to me who wanted to shake hands with me.

Q. Did you, directly or indirectly, put up any part of the bail in the Larkin case? A. Not a cent.

Q. Mr. Recht is your attorney? A. Yes.

Q. Charles Recht? A. Yes.

Q. Will you state whether it was by your direction, or with your approval, that Mr. Recht, the counsel for your Bureau, appeared for Larkin and Gitlow? A. I have not the slightest relation to the Larkin and Gitlow case. It is purely Mr. Recht's business and I have not the slightest connection with it.

Q. Well, the matter was discussed, though, was it not? A. It was on several occasions mentioned but I did not discuss any situation arising from the transactions of Communists or the Communist Labor Party. It does not concern me absolutely.

Q. Well now that was not the first time that Mr. Larkin called to see you, yesterday? A. Oh, all together, two or three times.

Q. What was the first time? When was the first time? A. Long ago.

Q. How long ago. A. Maybe five or six months ago.

Q. And when was the second time? A. Oh, say about at that time; but I did not see him for at least three or four months.

Q. Well, you saw him between the time of his arrest on the charge of criminal anarchy, yesterday, did you not — A. No.

Q. Did anyone see you in his behalf? A. No.

Q. You recall the circumstances of some eighteen or nineteen men being arrested, about a month ago, charged with criminal anarchy, and for whom Mr. Recht appeared? A. Yes.

Q. What was your interest in that matter? A. No interest at all. I do not know the men and they never appealed to me for any assistance.

Q. Well, some of them are Russian citizens? A. I understand so.

Q. Were you not interested in their cases? A. Well, I have too much to do to be interested in everything. I would gladly render them assistance if I could.

Q. Well, is it not a fact, Mr. Martens, that some of those men appealed to you for aid? A. No, sir.

Q. Not one of them? A. No, not one of them.

Q. And do you know that Mr. Recht deposited \$500 as part of the bail in the Larkin case? A. I do not.

Q. Do you know that to be a fact. A. No.

Q. Did you have anything to do with that \$500? A. Nothing at all.

Q. Not directly or indirectly? A. Not directly or indirectly.

Q. Or anyone in your Bureau? A. Or anyone in my Bureau.

Q. Will you state positively that it was not after conference with you that Mr. Recht appeared for those eighteen or nineteen men. A. Absolutely positively, Mr. Berger.

Q. Well, now, you stated to us that it was the policy of the Bureau, and of your legal department in particular, to give aid and assistance to citizens of Russia who were in difficulties here? A. Yes.

Q. You have not reversed that policy, have you? A. No, not at all.

Q. And in spite of that policy not having been reversed, you say that you did not in any way give assistance to any of these people? A. No.

Q. Neither by advice or counsel or financial assistance, or in any other way? A. No.

Q. Are you in touch with the leaders of the Communist Party in this country? A. What do you call "in touch?"

Q. In conference? A. No.

Q. Are you in correspondence with them? A. No.

Q. Do you know them? A. I know one or two of them.

Q. Whom do you know, Mr. Martens? A. Well, I met Gitlow; I met Larkin, too. Once I spoke on the same platform as Mr. Ruthenberg.

Q. Where was that, the Madison Square Garden? A. Madison Square Garden.

Q. June 20th? A. Yes.

Q. Do you know any others? A. No.

Q. Cohen? A. No.

Q. Fraina? A. Yes, I think I met him on several occasions.

Q. Your sympathies are with their doctrines, to be perfectly frank, Mr. Martens? A. Well, to be perfectly frank, I have not seen their program. Maybe they make mistakes. I cannot judge. All I can tell you is I have absolutely no connection with the Communist Party.

Q. But you know their general plan and scope and ideas on which the Communist Party of America is founded? A. Why, certainly. I suppose it is the same as the Russian Communist Party.

Q. So, being the same as the Russian Communist Party, naturally your sympathies are with them? A. Yes.

Q. And you believe, do you not, that the principles the Communist Party of America advocates in this country ought to be carried out in this country, do you not, to be perfectly frank? A. No, I would not answer that. To be perfectly frank with you, Mr. Berger, I would not answer yes or no before I see and before I study the program of the Communist Party of America. I did not study it and have never had a chance to do it, and so I cannot answer you yes or no.

Q. You know, though, that they are founded on the same principles; that it is founded on the same principles as the principles of the Russian Communist Party? A. Yes.

Q. Well, now, assuming that they are founded on the same principles — which I may tell you they are — do you, or do you not, sympathize with their views? A. Well, every Socialist sympathizes with every other Socialist.

Q. Will you be specific? I am asking you a direct question. Assuming that the principles of the Communist Party of America are substantially the same as those of the Communist Party of Russia, do you believe that those principles should be carried out in this country? Now, that is a plain question and is susceptible of a yes or no answer. A. Every party has certain principles that they wish to carry out. It is the desire of the Communist Party to carry out their principles.

Q. You have not answered the question. A. What is the question?

Mr. Berger.—Will you please read the question again?

(Question read by reporter.)

A. No, I cannot answer yes or no.

Q. Well, what is the best answer you can make as to your belief, your sympathies? A. I can answer that everyone who professes certain principles ought to carry them out.

Q. Well, now, of course — A. But the Communist Party of America does not concern me.

Q. What are your sympathies in that direction? Are you inimical to them? Are you against them? A. No, I am not.

Q. Well, then, are you for them? A. Well, I am neither for nor against.

Q. You are not against? A. No.

Q. Are you for them? A. I am not against them.

Q. I know you are not against them; are you for those principles? A. Mr. Berger, do you want to pin me down?

Q. I want to pin you down to an answer to my question. A. The Communist Party, or Communist Liberal Party of America, does not concern me absolutely. I refuse to answer anything regarding that party. They do not concern me at all.

Q. But you have spoken on the same platform as the leaders of that party? A. Yes, I did.

Q. Now, you believe that the principles of the Communist Party are good for Russia, do you not? A. Certainly.

Q. And you believe they ought to be carried out in Russia? A. Certainly.

Q. You also believe that those principles ought to be extended throughout the whole world, do you not? A. Well, that is a matter for the world to decide.

Q. I am asking for your belief. We are not interested in the belief of the world. I want your belief. A. Mr. Berger, you want to connect me with this propaganda.

Q. I am not trying to do anything of the kind. We want to get your views. You are an intelligent man and we want to get your views. A. Mr. Berger, the last time you stated I admitted advocating a revolution in the United States of America.

Q. We stood on the record. To get back to the question: You believe that those principles would be good for the rest of the world as well as for Russia? A. Yes.

Q. And the United States is a part of the rest of the world, is it not? A. Yes.

Q. Well, then, do you believe that they would be good for the interests of this country and the people of this country? A. I do not only believe, I know. I know that every country in the world will be a believer in Socialistic principles. That is a matter of knowledge.

Q. That is simply an opinion? A. No, it is a matter of knowledge.

Q. Are you possessed of prescience? A. No, not at all.

Q. You do not know that that is going to occur; you simply believe in it? A. No. Socialism will conquer the world. I know it.

Q. And you are doing your share to help conquer this particular portion of it? A. I am doing my share to help Soviet Russia.

Q. Now, will you state more fully what the substance of the conference between you and Larkin was? A. Nothing at all. It was no conference at all. Simply a friend of Larkin's wanted to shake hands with me, wanted to see me; and he came in and stayed about five minutes in my office.

Q. You mean Larkin brought this friend and presented him? A. Yes, sir.

Q. Who was the friend? A. I have forgotten his name, but I think I have his card on my table.

Q. Is he an American citizen? A. No.

Q. A Russian? A. English.

Q. Did you send greetings to the fifth convention of the conference of Russian branches of the Communist party, in this city, between August 20th and August 28th? A. No.

Q. Well, did you send greetings to any convention of the Russian branches of the Communist party, in this city? A. No, I did not.

Q. You did not? A. No.

Q. If there are entries in the minute book of this particular organization to that effect, are those entries incorrect? A. I do not remember.

Q. If there is an entry in the minute book of this organization that you sent greetings to them, is that incorrect? A. Sometimes I am receiving greetings from all kinds of branches, conferences and so on; and usually I am answering a simple letter and sending greetings; so that may be the case.

Q. You have been kept quite fully informed, have you not, by Mr. Recht, concerning the various steps taken in the cases of the men recently arrested in this city? A. No, I have not had time to discuss it.

Q. Well, what have you been so busy with, Mr. Martens, if that is not an impertinent question? A. Well, Mr. Berger, you gave me a lot of trouble.

Q. Not all the time. A. Well, still I have my other business.

Q. In what direction? A. My usual business and correspondence with different commercial firms, and attending to office business. It takes my time.

Q. You are in sympathy, are you not, Mr. Martens, with the principles expressed in the call for the Third International? A. Which do you mean, Mr. Berger?

Q. Well, as I understand, there is only one call for the Third International. A. Which one?

Q. Well, the call, the call sent out by — A. By whom?

Q. Your friends in Soviet Russia? A. Well, there were many calls, Mr. Berger; I do not know which one you mean.

Q. In reference to the call that contained the words, substantially, to the effect that the bourgeoisie must be disarmed and the proletariat armed. That is the one that refers to all the workers of the world, does it not? A. Well, Mr. Berger, why should we discuss it? I really do not know. It is something I cannot discuss.

Assemblyman Burr.—May I ask a question?

The Chairman.—Yes.

Mr. Burr.—Did Mr. Walsh accept your invitation to become your counsel?

The Witness.—Yes.

Mr. Burr.—Did he accept that invitation?

The Witness.—Yes.

By Mr. Berger:

Q. And in what particular matter was that? A. In the matter of this Committee, and in general.

The Attorney-General.— You mean by that as to your rights before the Committee?

The Witness.— Yes.

The Attorney-General.— Did he give you any opinion on the subject? A. Yes, he expressed it.

The Attorney-General.— Any written opinion?

The Witness.— No, no written opinion.

The Attorney-General.— Was the subject similar to that discussed by Mr. Justice Greenbaum, discussed with him? A. Yes.

The Chairman.— Well, I suppose this power that you have here from your so-called government, is general in its scope, is it not? That is, you are largely acting under your own judgment?

The Witness.— I do not understand.

The Chairman.— I say, you are largely acting under your own judgment? A. Yes.

The Chairman.— The general instructions that you have is to create a sentiment in this country favorable to the peculiar form of government that there is in Russia? A. Yes.

The Chairman.— And, of course, you put that forward in its most attractive way? A. Yes.

By Mr. Berger:

Q. You said that you did not send any greetings to this convention of the Communist party; is that right? A. I say maybe I have sent them, but if I sent them it was only in answer to some sort of greetings from them.

Q. You do not recall what the substance of that greeting was? A. I do not recall, no.

Q. But it was substantially an expression of sympathy and approval with the ideas of the Communist party? A. Probably — no; general thanks for their greetings, or a wish for their success.

Q. You expressed a hope that they would be successful in their endeavors? A. Probably.

By the Attorney-General:

Q. Well, you would expect to get help, in your cases, from the Communist party, would you not, Mr. Martens? A. No.

Q. You would not expect any help from them? A. No.

Q. You would expect sympathy from them? A. Yes.

Q. And if you expected to find sympathy anywhere in this country, it would be through that party and from them? A. Through every party I work with, their sympathies and help.

Q. I mean the sympathies of the Communist party. A. The Communist party and Socialists and Liberals.

Q. And you would expect to find sympathy from them before you would from any other parties in this country? A. No, I have sympathies from many liberals; also from the Socialist party. They have on many occasions expressed their sympathy; and also from the public.

By Mr. Berger:

Q. Who is Krasnoff, in Soviet Russia, or some name approximating that? A. I don't know.

Q. Who is Voldarski? A. Voldarski was one of the People's Commissariat who was assassinated in Petrograd.

Q. And he originally came from Philadelphia, did he not? A. I don't know whether he was in Philadelphia, but I know he was in New York.

Q. Do you know his other name? A. I don't know.

Q. Was it Goldman? A. I don't know.

Q. Who was Shatoff? A. Chief of police in Petrograd.

Q. And what are his functions there? A. Chief of police.

Q. What are his duties? A. What the duties of chief of police are.

Q. New York City? A. Yes.

Q. Do you know anything about his police record in New York City? A. No.

Q. What particular qualifications did Shatoff have? A. I understand he is a very energetic man and is a first-class chief of police in Petrograd.

Q. He was a member of the I. W. W. in this country, was he not? A. Yes, I think he was.

Q. And you say that he is energetic in the carrying out of his duties? A. Yes.

The Chairman.— Now, is it true that a man can be a citizen of the Russian Soviet Government, as it exists to-day, and retain his citizenship here in the United States at the same time?

The Witness.— Well, Mr. Chairman, you see the situation is this: During the Czar's government, a Russian citizen who became an American citizen did not lose his Russian citizenship.

The Attorney-General.— Is that true now?

The Witness.— It is not now. Every foreigner who came to Russia, who settles in Russia and believes in citizenship, becomes a citizen; but that does not relate to our American laws. I do not know how the situation will be in America.

By Mr. Berger:

Q. Now, just to go back to the Shatoff matter for a minute. Will you tell us in detail what his duties are in Petrograd? A. I do not know what his duties are.

Q. Well, you are pretty well informed on conditions there, are you not? A. Certainly. As far as I know, Mr. Shatoff is a very good chief of police. He suppressed every crime in Petrograd. Petrograd is now the safest city in the world. American people coming from Petrograd say it is much safer than New York, Chicago, or other American cities; and they claim it is due to the energies of Shatoff.

Q. Well, is it particularly safe for the so-called counter revolutionists there? A. Absolutely.

Q. What did he do to the counter revolutionists to make it so safe for them? A. We have our regular court proceedings and every criminal caught in Russia is tried and given every opportunity to defend himself; so they are not killed or hanged, as you imagine, without a trial. They are tried in a very regular way, and if they are executed, it is for something very substantial.

By the Chairman:

Q. How are the courts created? A. The courts are created by elections. The judges are elected.

By Mr. Berger:

Q. Are they executed for crimes other than murder? A. Plotting against the government, treachery and those kinds of crimes.

Q. And a counter revolution is a crime punishable by death, is it not? A. A counter revolution is. There are all kinds of penalties.

Q. You mentioned that as among the crimes? A. No, I did not, Mr. Berger. A counter revolution is — there are thousands of crimes — a counter revolution may consist of assassinating any one of the People's Commissars; or a counter revolutionary act may consist of profiteering, or something of that kind. For one crime the penalty may be one or two years in prison, or may be a month or two.

Q. What was the particular crime of the 1,500 Commissars who were executed? A. Treachery.

Q. What kind of treachery? A. Giving information to the enemy, chiefly.

Q. Well, not all of them did that? A. Chiefly, I don't know every case, Mr. Berger.

Q. Some of them merely spoke and agitated against the Bolsheviks? A. No, for speaking and agitating nobody was executed in Soviet Russia.

Q. Will you identify the Mr. Frank P. Walsh you refer to? Which Mr. Frank P. Walsh was that? A. Will I identify him?

Q. Yes so that we know who it was. A. I cannot understand you.

Q. Where is his office? A. Somewhere down town.

Q. In New York City? A. Yes.

Q. And has he any official position of any kind that you know of? A. No.

Q. You don't know whether he has or not? A. I don't know.

Q. Do you know whether he did have any official position? A. I know he was the past several years the head of a committee in Congress to investigate the trusts here in America, that I know.

Q. And that is the same Mr. Walsh who was on the War Labor Board? A. That is right.

The Attorney-General.— Mr. Chairman, I have been so occupied since the former hearing that I have not had time to go over the record of questions which were asked Mr. Martens and which he has declined to answer. I think we can save time if we take

our recess at this point and in the meantime those questions will be prepared.

The Chairman.— Will it be agreeable to you, Mr. Martens, to be back here, say at two o'clock?

The Witness.— Yes, sir.

The Chairman.— Then we will take a recess now until two o'clock this afternoon.

(Whereupon at 12:15 P. M. the committee took a recess to two o'clock of the same day.)

### AFTER RECESS

(Prior to the open session, the Committee held an executive session.)

The Committee reconvened at 3:30 P. M.

LUDWIG C. A. K. MARTENS, resumed, and testified as follows:

By the Attorney-General:

Q. Mr. Martens, you were served with a subpoena duces tecum to produce certain documents in your possession. Do you remember when that was? A. Here is the subpoena here.

Q. Can you tell me when that was served upon you? A. The 14th day of November.

Q. 1919? A. 1919, yes.

Q. And in pursuance of the subpoena, you did produce the check book? A. Yes.

Q. Did you produce the bank books? A. No, the check books contain everything.

Q. You were asked to produce books of account. Have you produced any books of account? A. No, but I can produce them at any moment.

Q. You can produce those and will produce them? A. Yes.

Q. You were asked to produce—that is, you were subpoenaed to produce, letters and other papers received by you and your Bureau from Soviet Russia? A. Yes.

Q. Have you produced any of such letters or papers? A. No, I did not.

Q. Did you have letters and papers in your possession, from Soviet Russia, at the time of the service of this subpoena? A. Yes, sir.

Q. You have them yet? A. Yes, sir.

Q. And will you now produce them? A. No, sir.

Q. Why?

The Witness.—Mr. Chairman, allow me to make a statement in connection with this?

The Attorney-General.—Q. Yes, I have asked you why purposely in order to give you an opportunity to make a statement.

The Witness.—I desire to state the reasons why I decline to produce my correspondence with the government of Soviet Russia and to answer any questions relating to the same.

I am the duly accredited representative of the *de facto* government of Soviet Russia. A *de facto* government has been defined as "such as exists after it has expelled the regularly constituted authorities from the seats of power in the public offices and established its own functionaries in their places, so as to represent in fact the sovereignty of the nation." (Moore's Digest of International Law, Volume 1, page 44, quoting from Williams against Bruffy, 96 U. S. 176, pages 185-186.) It is further said by the same authority that a *de facto* government enjoys "the rights and attributes of sovereignty . . . independently of all recognition." (Moore's Digest, Vol. 1, page 72.) Now, it is the accepted principle of International Law that the correspondence between a foreign government and its representative is privileged. I have applied to Justice Greenbaum of the New York Supreme Court for relief. I have read in the newspapers that my application has been denied, but as far as I know no copy of the order denying my application has been served upon my counsel. As soon as we are served with a copy of the order of Judge Greenbaum we intend to take an appeal from his order.

I have answered all questions pertaining to my own activity within the State of New York; I have produced all my books and correspondence, although I might have claimed privilege under the principles of International Law. But, to quote the language of the late Secretary of State Hay, in a similar matter, a representative of a foreign government "cannot be required to divulge information which came to him in his official capacity, for that is the exclusive property of his government." (Moore's Digest of

International Law, Vol. 5, pages 84-85, quoting from Secretary Hay's letter dated April 17, 1899, in the matter of Consular Agent Clancy.)

I desire to emphasize once more that the reason I decline to answer is *not* that I have anything to conceal but as a matter of principle; I have no authority to divulge the contents of my correspondence with my government.

By the Attorney General:

Q. Was the paper you have just read prepared by your counsel? A. Yes, sir.

Q. And prepared for the purpose of presenting here as a legal reason why you need not produce the papers? A. Yes, sir.

The Attorney-General.—Mr. Chairman, I ask that the witness be directed to produce the papers mentioned in the subpoena, being letters and other papers received by him and his bureau from Soviet Russia, and all copies of letters, documents and other papers sent to him and his Bureau and now under his control, by Soviet Russia, between the 1st day of January, 1919, and the date of service of this subpoena—which you said was November what?

The Witness.—November 14th.

The Attorney General.—November 14th.

The Chairman.—Now, Mr. Martens, pursuant to the instructions of the Committee, and in accordance with the powers vested in them, I, as Chairman of the Committee, direct you to produce those papers.

The Witness.—I am very sorry, Mr. Chairman, that I have to decline.

By The Attorney-General:

Q. My recollection, Mr. Martens, is that you told me the other day, that you had issued no passports? A. No sir.

Q. And you now say the same, that you have issued no passports? A. No sir.

Q. Either to leave this country—to anyone? A. No sir.

Q. Or to enable any agent of Soviet Russia to get from any other country into Russia? A. No, no passports.

Q. Have you issued any paper at all which would tend to assist any representative of you to get back into Russia? A. Yes, I have.

Q. And to whom did you issue such a paper? A. I addressed them mostly "To whom it may concern."

Q. And under what date? A. Different dates; I don't remember, Mr. Newton.

Q. And under what date? A. Different dates, I do not remember.

Q. Different dates from January, 1919? A. From March.

Q. March, 1919? A. Yes.

Q. To whom did you deliver any one of those papers? A. I am sorry I have to decline.

Q. You know the names of some of the persons, at any rate, to whom you did deliver those papers? A. Yes.

Q. And you could give the Committee the name of the person if you desired to? A. Yes, sir.

Q. Now, I ask you to give the name of one or more of those persons to whom you have delivered such a paper since March, 1919. A. I have to decline for the same reason.

Mr. Newton.—I ask the Chairman to direct the witness to answer the question.

The Chairman.—Under the same instructions from the Committee the Chair directs you to answer the question of the Attorney-General. A. I decline.

By the Attorney-General:

Q. Will you tell me about how many such papers you have delivered since March, 1919, Mr. Martens? A. Five or six.

Q. And you don't call such a paper a passport? A. No, I don't.

Q. What do you call it? A. A reference letter.

Q. Reference letter? A. Yes.

Q. Now, you testified as I recall it that there were certain papers or credentials delivered to you from the Russian Soviet Government, delivered personally to you in New York? A. Yes, sir.

Q. By messenger? A. Yes, sir.

Q. And the first of those papers, as I recall your testimony, was about the middle of March, 1919? A. Yes, sir, that is right.

Q. And they were your — A. Official credentials, yes, sir.

Q. — official credentials advising you that you had been selected by the Soviet Russian Government as their representative in this country? A. Yes, sir.

Q. Do you know the name of the messenger who delivered the paper to you? A. Yes, I know him.

Q. Well, who was it? A. I decline to answer.

Q. The papers were delivered here in New York? A. Yes, sir.

The Attorney-General.— I ask the Chairman to instruct the witness to answer the question.

The Chairman.— Under the authority conferred on me as Chairman of the Committee, I instruct you to answer the question, Mr. Martens.

The Witness.— I decline, Mr. Chairman.

By the Attorney-General:

Q. And is the reason why you decline to give the name of the messenger substantially the reason that you have read into the record this afternoon? A. Yes, sir.

Q. And to cover it once for all, that is substantially your reason for declining to answer any of the questions that you decline to answer here? A. That is the only reason, Mr. Attorney-General.

Q. That is the only reason? A. Yes, sir.

Q. I think I asked you the other day if you could produce those credentials. A. As a matter of fact I have produced a copy to Mr. Berger when I was questioned in his office.

Q. You did produce that? A. Yes, sir, a photographic copy.

Q. Well, that is not before this Committee. You are willing to produce a copy of those credentials here to this Committee? A. Yes, sir.

Q. Have you them with you so that they can be marked in evidence now? A. No, I have not them.

Q. How long would it take you to get them? A. Oh, an hour I suppose, or two, I could send it tonight, Mr. Newton, if you like.

The Attorney-General.— Well, I don't like to have a paper marked in evidence which you do not identify here, because I don't want to take chances. Possibly we can send over to Mr. Berger's office and you can recognize the photograph if it is produced here.

The Witness.— Yes, I gave to Mr. Berger one copy.

The Attorney-General.— Well, we will send over and see if we can get it.

(A messenger was sent over to Mr. Berger's office, 51 Chambers street, to procure the copy referred to.)

By the Attorney-General:

Q. Now, you testified, as I recall it that from time to time you are now receiving communications from Soviet Russia in the form of letters and other documents, by special messenger? A. Yes, sir, from time to time.

Q. And about how many of those communications or documents have you received since you received your official notification of your appointment or designation? A. You mean by means of messengers?

Q. Yes. A. About ten times.

Q. And have you copies of all the communications and letters, or originals or copies of all the communications? A. I keep only official communications.

Q. You keep only official communications, and were there ten of those? A. Yes, sir.

Q. Those you have in your possession now? A. Yes, sir.

Q. And can produce them here if you have a mind to? A. Yes, sir.

Q. Now, will you produce those papers? A. No, I decline to produce them.

The Attorney-General.— I ask the Chairman to direct the witness to produce those ten communications to which he refers in his testimony.

The Chairman.— I direct the witness to produce them, and each of them.

The Witness.— I decline, Mr. Chairman.

The Chairman.— The Chair directs the witness to produce the papers referred to by the Attorney-General, and each of them.

The Witness.— I decline, Mr. Chairman.

By the Attorney-General:

Q. And they are in the form of letters and other documents?

A. In the form of letters.

Q. In the form of letters? A. Yes, sir.

Q. Were those ten communications all received by special messenger? A. Yes.

Q. The same messenger, or different messengers? A. Different messengers.

Q. Were any two of them received by the same messenger? A. I —

Q. Delivered, I mean. Did you receive them from the same messenger, any two of them? A. No.

Q. Can you give the names of the ten messengers who delivered the messages? A. No, sir.

Q. Or letters? A. No.

Q. You could not give the names of the ten if you wanted to? A. The names of most of them I could give you.

Q. But not all of them? A. No, not all of them.

Q. So you could not give the names of the whole ten if you wanted to? A. No.

Q. Now, could you give the names of any of the ten? A. I decline to.

Q. Could you? A. Yes, sir.

Q. Now, I ask you to give me the name of one of them? A. I decline.

The Attorney-General.— I now ask the Chairman to instruct the witness to answer the question.

The Chairman.— I so instruct the witness.

The Witness.— I decline, Mr. Chairman.

By the Attorney-General:

Q. Now, Mr. Martens, do these ten letters that were delivered to you, as you have described, contain, in any one of them — did any one of them contain money from the Russian government? A. Yes, sir.

Q. Did they all contain money? A. Not all, no.

Q. How many of them did contain money from your government, how many of the ten? A. I think five.

Q. Now, can you give me the names of any one of the five messengers who delivered money to you from your government?

A. I could, yes.

Q. Will you give me the name of one messenger who delivered money to you from the Russian government? A. I decline.

The Attorney-General.— I ask the Chairman to instruct the witness to answer the question.

The Chairman.— The Chair instructs you to answer the question.

The Witness.— I decline, Mr. Chairman.

By the Attorney-General:

Q. Those deliveries were all made since March, 1919? A. Yes, sir, Mr. Newton.

Q. Now, do you send a report to your government of the method of the expenditures of any of the moneys that you receive from them? A. Yes.

Q. And a written report? A. A written report, yes.

Q. Do you keep a copy of those reports? A. Yes.

Q. And you could produce a copy of those reports if you were inclined to? A. Yes, I could.

Q. Will you produce any one of them to the Committee? A. I decline.

The Attorney-General.— I ask the Chairman to instruct the witness to answer.

The Chairman.— You are instructed to produce the reports required by the Attorney-General.

The Witness.— I decline, Mr. Chairman.

Assemblyman McElligott.— Mr. Attorney-General, are these reports referred to in the subpoena?

The Attorney-General.— Of course, the subpoena is pretty broad, it is general. He is directed to produce all documents, letters and other papers received by him or sent by him.

Assemblyman McElligott.— I see.

The Attorney-General.— "Documents and other papers sent by you or your Bureau to Soviet Russia."

Assemblyman Mcelligott.— I see.

By the Attorney-General:

Q. Were any of these reports sent to your government by special messenger? A. Mostly by mail.

Q. Well, were any of them? A. Several of them were sent by special messenger.

Q. Some one or more of them were sent by special messenger? A. Yes.

Q. You know the names of the messengers who carried the reports? A. Yes, I know.

Q. What is the name of one of the messengers who carried a report? A. I decline to answer.

The Attorney-General.— I ask the Chairman to direct the witness to answer.

The Chairman.— The witness is so directed.

The Witness.— I decline to answer, Mr. Chairman.

By the Attorney-General:

Q. You testified that there was some agency outside of the United States that transmits to you certain letters from your government? A. Yes.

Q. That is true, is it? You understand me, and that is a fact? A. Yes.

Q. Where is that agency located? A. One of them is in Sweden.

Q. In Sweden? A. Yes.

Q. Is there more than one? A. Yes, more than one.

Q. Where are any of the others? A. I decline to answer.

The Attorney-General.— I ask the Chairman to instruct the witness to answer.

The Chairman.— The Chair instructs you to answer.

The Witness.— I decline to answer.

By the Attorney-General:

Q. How many such agencies are there? A. I decline to answer.

The Chairman.— The Chair instructs you to answer.

The Witness.— I decline.

By the Attorney-General:

Q. Do you know the person in charge of any one of those agencies? A. Yes, I know.

Q. Will you name a person that is in charge of one of the agencies? A. Yes, I could.

Q. Will you? A. There is one, Mr. Strom, a member of the Swedish Parliament.

Q. That is the Swedish agency? A. Yes.

Q. What part of Sweden? A. Stockholm.

Q. Can you give us a better address than that? A. No, he is well known in Stockholm; simply address: "Mr. Strom, Stockholm."

Q. He is an official? A. Yes, he is an official representative of the Soviet Government in Sweden.

Q. Do you address him as "Consul" or "Ambassador?" A. A representative.

Q. Representative? A. Yes.

Q. Now, do you know the name of any person who is in charge of any other agency, through whom you send or receive communications from Soviet Russia? A. Yes, I know.

Q. And will you give me the name of such persons? A. I could.

Q. You said you could. Now, will you? A. No, sir; I decline.

The Attorney-General.—I ask the Chairman to direct the witness to answer.

The Chairman.—The Chair directs the witness to answer the last question and give the names requested by the Attorney-General. What is your answer?

The Witness.—I decline, Mr. Chairman.

Assemblyman McElligott.—Mr. Attorney-General, there is a question in the minds of some of the members of the Committee as to whether the government of Sweden recognizes Soviet Russia, the present form of government, the alleged form of government, of Soviet Russia.

The Witness.—I did not get that.

Assemblyman McElligott.—Does Sweden recognize the present form of government — alleged form of government, in Russia?

The Witness.—Well, in Sweden there is an official representative of the Soviet Government, who is at the present time a member of the Swedish Parliament.

Assemblyman McElligott.— But is he accredited from Soviet Russia to Sweden and recognized as a representative — a diplomatic representative?

The Witness.— Not in the usual sense.

Assemblyman McElligott.— What is that?

The Witness.— Not in the usual sense.

Assemblyman McElligott.— Not in the usual sense?

The Witness.— No.

Assemblyman McElligott.— And this individual is a member of the Swedish Parliament; is he?

The Witness.— Yes.

Assemblyman McElligott.— And he himself is an official of the Government of Sweden, is he?

The Witness.— Yes, he is a member of the Sweden Parliament.

Assemblyman McElligott.— He could not act both as a member of the Swedish Parliament and as a representative of the Russian government, could he?

The Witness.— Yes.

Assemblyman McElligott.— He could?

The Witness.— Yes.

Assemblyman McElligott.— Responding to both governments?

The Witness.— No. A member of parliament does not take part in any government.

Assemblyman McElligott.— I fail to see, Mr. Martens, how he could serve two masters.

The Witness.— Especially if he wants to make out as his master's friend — why not?

By the Attorney-General:

Q. Is there any one of the persons who delivered money to you from Soviet Russia now in the United States, to your knowledge?

A. Not to my knowledge.

Q. Are there any of the messengers who delivered any of the messages from the Russian government to you now in the United States, to your knowledge? A. I decline to answer.

The Attorney-General.— I ask the Chairman to direct the witness to answer.

The Chairman.— The Chair so directs.

The Witness.— I decline to answer.

By the Attorney-General:

Q. Are there any messengers to whom you have delivered messages to your government, or to be delivered to your government, now in the United States, to your knowledge? A. Not to my knowledge.

Q. You testified at a former hearing that the original communications between you and the Soviet government were kept by you, but not kept in your home or your office? A. That is right.

Q. But that you kept them in a private place? A. Yes.

Q. Where are such papers kept? A. I decline to answer.

The Chairman.— The Chair instructs you to answer.

The Witness.— I decline to answer.

By the Attorney-General:

Q. I show you a paper, Mr. Martens, which purports to be a photographic copy of your credentials? A. That is right.

Q. Is that a correct representation of the official paper? A. (Examining.) Yes, that is correct.

Q. That is in Russian? A. Yes.

The Attorney-General.— I offer it in evidence.

The Chairman.— Received.

(Photographic copy of credentials of Mr. Martens, referred to, received in evidence and marked Exhibit No. 347 of this date.)

The Attorney-General.— I will ask the witness to translate it for us.

The Witness.— The translation is:

“ Be it known that the Russian citizen, Ludwig Christian Alexander Karl Martens, who is living in the United States

of America, is appointed as a representative of the People's Commissariat for Foreign Affairs in the United States of America." Signed by "The People's Commissioner for Foreign Affairs, Chicherine," and "Secretary F. Schenkin."

The Attorney-General.— Will you translate the little heading that is in the corner of the exhibit?

The Witness.—"Russian Socialist Soviet Republic, People's Commissariat for Foreign Affairs. Bureau of the People's Commissariat. 2d of January, 1919, No. 918. Moscow, corner of Spiridonofka and Patrnardsky side street. Telephone number 42996."

The Chairman.— The document that you have read in evidence as your certificate of authority is the only authority you have for acting and carrying on the work you are now carrying on in the United States?

The Witness.— No, I have another document authorizing me to make contracts, to make payments, receive money and do all business concerned with Soviet Russia.

The Chairman.— Who signed that?

The Witness.— Also the People's Commissariat for Foreign Affairs.

The Chairman.— And have you that paper?

The Witness.— Yes, not by me, but I think I have it in the office.

The Chairman.— You can produce it?

The Witness.— Yes.

The Chairman.— And you will produce it?

The Witness.— Yes.

By Assemblyman McElligott:

Q. Mr. Martens, is there somebody besides yourself acting as a representative from Russia in this country? A. Nobody.

Q. Is the Ambassador who is accredited from the old government still acting in that capacity in Washington? A. In the capacity of — what do you mean?

Q. In the capacity of Ambassador as representing Russia? A. Well, you refer probably to Mr. Bahkmateff, who was previously on the Russian Embassy.

Q. Yes. He is still in Washington, isn't he? A. He occupies that building but that is his only function.

Q. And he is still in communication with Russia, isn't he? A. Yes, I think so.

Q. And he has access to the Department of State of this government as representing the Russian government? A. Yes.

Q. And has he prevented you from obtaining recognition in Washington? A. I don't know anything about that. Anyhow Mr. Bahkmatieff does not represent anything in this country.

Q. You have never had any communication with him? A. No.

Q. You ignore him absolutely? A. Yes.

Mr. Stevenson.—You made a demand on him for \$153,000,000?

The Witness.—I did.

Mr. Stevenson.—Which was in his custody?

The Witness.—Yes, \$150,000,000.

By Assemblyman McElligott:

Q. Did he reply giving his reasons for not giving you the \$153,000,000? A. No, he did not.

Q. But the fact is that he has possession of that money? A. Yes, he has, and he has spent it.

Q. Spent it on government work for Russia? A. Spent it mostly for paying salaries for his assistants.

Q. Salaries of persons who represent Russia? A. Well, assisting him, doing nothing.

The Chairman.—I should like to have that other paper, Mr. Martens, placed in evidence which you say shows your authority. You will produce that and put it in evidence at a subsequent meeting?

The Witness.—Yes, sir.

By the Attorney-General:

Q. Mr. Martens, have any papers connected with your bureau or with you personally been removed recently from the state of New York? A. Well, now recently?

Q. Well, since we commenced examining you here? I have forgotten how long ago that was, but sometime in June, wasn't it?

A. Well, my rule is Mr. Newton, not to keep any paper that I don't want anybody to have in the office, since this raid on our bureau.

Q. My question is if you have sent out of the jurisdiction of the State of New York any paper? A. Yes, I did.

Q. And where did you send such paper? A. I decline to answer.

The Chairman.—The Chair instructs the witness to answer.

The Witness.—I decline to answer.

By the Attorney-General:

Q. You did send them out of the State of New York, and how did you send them out of the State of New York? A. Partly by messengers, partly by mail.

Q. You know who the messenger was, the name of the man who took them? A. Yes, sir.

Q. Did the same person take all of the papers? A. Most of them.

Q. You could give the name of the person who was the messenger, if you cared to? A. Yes.

Q. Who was it? A. I decline to answer.

The Chairman.—The Chair gives the same instructions to the witness.

The Witness.—I decline to answer, Mr. Chairman.

By the Attorney-General:

Q. I think I asked you where those papers were. A. Yes, you did ask me.

Q. And you declined to answer? A. Yes.

Q. And the chairman has instructed you to answer and you then decline to answer? A. Yes, sir.

Q. Was any one of the messengers an employee of your office? A. No.

Q. Or any of them members of your staff? A. No.

Q. Did you send any of those papers to Chicago? A. No.

Q. I have not guessed the right place? A. (Laughing) No.

Q. These papers that you have sent out of the jurisdiction of the State of New York are subject to your recall, are they not?  
A. Yes.

Q. And you have no doubt that if you should need them and want them, upon your request they would be brought back to you?  
A. Yes, sir, yes.

By Assemblyman McElligott:

Q. Are those papers outside of the United States or within the United States? A. Within the United States.

Q. They have not been sent to another country? A. No.

The Chairman.— Now, Mr. Martens, can you be here to-morrow morning at 10.30 o'clock?

The Witness.— Yes, Mr. Chairman.

The Chairman.— And you will bring with you that other paper that is to be placed in evidence?

The Witness.— Yes, sir.

The Chairman.— Then we will advise you tomorrow morning what action the Committee will take.

Mr. Clark, you can attend here tomorrow morning at 10.30?

Mr. Clark.— Yes, sir.

The Chairman.— And Mr. Nuorteva, you will attend here to-morrow morning at 10.30?

Mr. Nuorteva.— Yes, sir.

The Chairman.— The Committee stands adjourned until 10.30 o'clock tomorrow morning.

(Whereupon at 4.10 p. m. the meeting recessed to Friday at 10.30 a. m., December 12th, 1919).

**MEETING OF JOINT LEGISLATIVE COMMITTEE OF THE  
STATE OF NEW YORK TO INVESTIGATE  
SEDITIONOUS ACTIVITIES**

CITY HALL, CITY OF NEW YORK,  
FRIDAY, December 12, 1919.

The Committee met pursuant to recess (11:15 A. M.)

***Present:***

Assemblyman Martin, Vice-Chairman;  
Assemblyman McElligott,  
Senator Walters,  
Assemblyman Pellett,  
Assemblyman Burr.

***Appearances:***

Hon. Charles D. Newton, Attorney-General;  
Hon. Samuel A. Berger, Deputy Attorney-General;  
Archibald E. Stevenson, Esq., Associate Counsel.

Mr. Charles A. Hotelling, Sergeant-at-Arms.

The Chairman.—Proceed.

LUDWIG C. A. K. MARTENS, having been previously duly sworn, resumed the stand and testified as follows:

By Mr. Berger:

Q. You agreed yesterday, Mr. Martens, to produce another credential in addition to what you have? A. Yes.

Q. Have you that? A. Yes.

(Witness produces paper.)

Q. This is a translation? A. No, it is a copy of the original.

Q. Was the original in English? A. English.

(Mr. Berger hands credential to the Chairman.)

Mr. Berger.—I offer this in evidence, Mr. Chairman.

The Chairman.—Received.

(Copy of credential received in evidence and marked Exhibit No. 348 of this date.)

By the Attorney-General.—I assume it may be copied in evidence.

By Mr. Berger:

Q. You do not want that paper back, do you? A. No.

(The exhibit referred to is as follows:)

“ REPUBLIQUE RUSSE FEDERATIVE  
DES SOVIETS  
COMMISSARIAT DU PEUPLE  
POUR  
LES AFFAIRES ETRANGERES  
Le 25th May 1919  
No. 534/k  
Moscou  
TO1 4-23-65

*To Whom It May Concern.*

The People's Commissariat for Foreign Affairs of the Russian Federative Socialist Soviet Republic hereby declares that citizen Ludvig Martens is authorized to take in charge and administration, in the name of the Russian Federative Socialist Soviet Republic, all movable and real estates of the former Embassy and Consulates and all properties on the territory of the United States of America belonging to the Russian Federative Socialist Soviet Republic. Citizen L. Martens is also entrusted with the right to solicit and answer claims, within the limits of the United States of America, in all cases where material interests of the Russian Federative Socialist Soviet Republic are engaged, to prosecute all civil and criminal cases on behalf of the Russian Federative Socialist Soviet Republic, in tribunals, courts and other institutions of the United States of America.

Citizen L. Martens is entrusted to defray all expenses on behalf of the Russian Federative Socialist Soviet Republic

and to receive all moneys claimed by the Russian Federative Socialist Soviet Republic in the United States of America, and issue receipts.

People's Commissary for Foreign Affairs,

(Signed) G. TCHITCHERIN.

Seal of  
the  
People's  
Commissary.

Secretary

(Signed) J. LEWON.

I hereby testify that the above is a true copy of the original document.

New York, Dec. 11, 1919.

(Signed) S. NUORTEVA,

*Secretary of the Russian Soviet Government Bureau."*

By Mr. Berger:

Q. The paper, Exhibit No. 348, is a true and correct copy of a document that you received from Soviet Russia, signed by G. Tchitcherin? A. Yes.

Q. And is the original in English, as this is? A. Yes.

Q. And this is a true and correct copy in every detail of the paper you received? A. Yes.

Q. What would you designate this, Mr. Martens? A. Oh, I don't know the exact term to be used for the paper; but it is supposed to be the power to make all kinds of financial and commercial agreements in America.

Q. Well, there is nothing in this paper that designates you as an Ambassador, is there? A. No.

Q. Or, as a Consul or Vice-Consul? A. No.

Q. Nor is there anything in this paper that, on the face of it, clothes you with any Ambassadorial powers? A. No. This paper only refers to the financial and economical matters.

Q. Were there any other papers that you have, that, in your opinion, clothe you with Ambassadorial powers? A. The only paper was the one yesterday.

Q. The one that was offered in evidence yesterday? A. Yes, sir.

Q. But outside of the one that was offered in evidence yesterday and this, you have other credentials? A. No.

Q. Do you know a man named Nathan Chabro, Mr. Martens? A. No, I never met him, but I know of the existence of this man.

Q. You have never met him? A. No. I do know of his existence, though.

Q. Who is he? A. I don't know.

Q. Have you ever communicated with him in any way? A. No, I have not communicated, but I have received a letter from him.

Q. When did you receive a letter from him? A. About a month and a half ago, I think.

Q. Where is he now, if you know? A. In Sweden.

Q. What part of Sweden? A. Stockholm.

Q. So that all you know about Nathan Chabro is that you are informed that he is in Sweden and that you received a letter from him about a month and a half ago? A. Yes.

Q. Is that all you know about him? A. That is all I know.

Q. You have not changed your determination, Mr. Martens, not to answer the various questions that were asked you yesterday? A. No, I have not.

Q. Probably you have been informed that a copy of the order was served on Mr. Malone? A. I was not informed. I have not seen Mr. Malone.

Q. I will inform you of that fact now, that he was served with a copy of the order. A. My intention is to appeal.

Q. Your intention is to appeal from the order of Mr. Justice Greenbaum? A. Yes.

Mr. Berger.— I ask that Mr. Martens be excused at this time. I want to call another witness.

The Chairman.— The paper that was introduced in evidence yesterday, as your certificate of office, is the paper on which you rely to act as supposed Ambassador, is it?

The Witness.— Yes.

By Assemblyman McElligott:

Q. Was that received in evidence?

The Chairman.— Yes, that is in evidence.

The Witness.— That is the original paper.

The Chairman.— Do you construe that paper to be sufficient to allow you to attempt to spread propaganda to influence public opinion so as to bring pressure on the authorities at Washington to recognize the Government?

The Witness.— Well, yes, the paper is sufficient for my activities.

The Chairman.— For your activities?

The Witness.— Yes.

The Chairman.— In every way?

The Witness.— Yes.

The Chairman.— All right.

Mr. Berger.— That is all just now, Mr. Martens.

The Chairman.— Mr. Martens, just a moment. If we want to examine you further and we send you word, I suppose you will be present?

The Witness.— Oh, yes.

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**EXHIBIT 41**

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**JANUARY 29, 1920**

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**DECREES AND CONSTITUTION**  
**OF**  
**SOVIET RUSSIA**

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## CONSTITUTION OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC

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The following translation of the Constitution of the Russian Soviet Republic is made from an official printed text embodying the latest revisions, and required by law to be posted in all public places in Russia:

Resolution of the Fifth All-Russian Congress of Soviets, adopted on July 10, 1918.

The declaration of rights of the laboring and exploited people (approved by the Third All-Russian Congress of Soviets in January, 1918), together with the Constitution of the Soviet Republic, approved by the Fifth Congress, constitutes a single fundamental law of the Russian Socialist Federal Soviet Republic.

This fundamental law becomes effective upon the publication of the same in its entirety in the "Izvestia of the All-Russian General Executive Committee." It must be published by all organs of the Soviet Government and must be posted in a prominent place in every Soviet institution.

The Fifth Congress instructs the People's Commissariat of Education to introduce in all schools and educational institutions of the Russian Republic the study and explanation of the basic principles of this Constitution.

### ARTICLE ONE

#### DECLARATION OF RIGHTS OF THE LABORING AND EXPLOITED PEOPLE.

##### *Chapter One*

1. Russia is declared to be a Republic of the Soviets of Workers', Soldiers' and Peasants' Deputies. All the central and local power belongs to these Soviets.

2. The Russian Soviet Republic is organized on the basis of a free union of free nations, as a federation of Soviet national republics.

##### *Chapter Two*

3. Bearing in mind as its fundamental problem the abolition of the exploitation of men by men, the entire abolition of the division of the people into classes, the suppression of exploiters,

the establishment of a Socialist society, and the victory of Socialism in all lands, the Third All-Russian Congress of Soviets of Workers', Soldiers', and Peasants' Deputies further resolves:

(a) For the purpose of attaining the socialization of land, all private property in land is abolished, and the entire land is declared to be national property and is to be apportioned among agriculturists without any compensation to the former owners, in the measure of each one's ability to till it.

(b) All forests, treasures of the earth, and waters of general public utility, all equipment whether animate or inanimate, model farms and agricultural enterprises, are declared to be national property.

(c) As a first step toward complete transfer of ownership to the Soviet Republic of all factories, mills, mines, railways, and other means of production and transportation, the Soviet law for the control by workmen and the establishment of the Supreme Soviet of National Economy is hereby confirmed, so as to insure the power of the workers over the exploiters.

(d) With reference to international banking and finance, the Third Congress of Soviets is discussing the Soviet decree regarding the annulment of loans made by the Government of the Czar, by landowners and the bourgeoisie, and it trusts that the Soviet Government will firmly follow this course until the final victory of the international workers' revolt against the oppression of capital.

(e) The transfer of all banks to the ownership of the Workers' and Peasants' Government, as one of the conditions of the liberation of the toiling masses from the yoke of capital, is confirmed.

(f) Universal obligation to work is introduced for the purpose of eliminating the parasitic strata of society and organizing the economic life of the country.

(g) For the purpose of securing the working class in the possession of complete power, and in order to eliminate all possibility of restoring the power of the exploiters, it is decreed that all workers be armed, and that a Socialist Red Army be organized and the propertied class disarmed.

### *Chapter Three*

4. Expressing its fixed resolve to liberate mankind from the grip of capital and imperialism, which flooded the earth with blood in its present most criminal of all wars, the third Congress

of Soviets fully agrees with the Soviet Government in its policy of abrogating secret treaties, of organizing on a wide scale the fraternization of the workers and peasants of the belligerent armies, and of making all efforts to conclude a general democratic peace without annexations or indemnities, upon the basis of the free determination of peoples.

5. It is also to this end that the third Congress of Soviets insists upon putting an end to the barbarous policy of the bourgeois civilization which enables the exploiters of a few nations to enslave hundreds of millions of the working population of Asia, of the colonies, and of small countries generally.

6. The third Congress of Soviets hails the policy of the Council of People Commissars in proclaiming the full independence of Finland, in withdrawing troops from Persia, and in proclaiming the right of Armenia to self-determination.

#### *Chapter Four*

7. The third All-Russian Congress of Soviets of Workers', Soldiers' and Peasants' Deputies believes that now, during the progress of the decisive battle between the proletariat and its exploiters, the exploiters should not hold a position in any branch of the Soviet Government. The power must belong entirely to the toiling masses and to their plenipotentiary representatives — the Soviets of Workers', Soldiers', and Peasants' Deputies.

8. In its effort to create a league — free and voluntary and for that reason all the more complete and secure — of the working classes of all the peoples of Russia, the third Congress of Soviets merely establishes the fundamental principles of the Federation of Russian Soviet Republics, leaving to the workers and peasants of every people to decide the following question at their plenary sessions of their Soviets, namely, whether or not they desire to participate, and on what basis, in the Federal Government and other Federal Soviet institutions.

### ARTICLE TWO

#### GENERAL PROVISIONS OF THE CONSTITUTION OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

#### *Chapter Five*

9. The fundamental problem of the constitution of the Russian Socialist Federal Soviet Republic involves, in view of the present transition period, the establishing of a dictatorship of the urban

and rural proletariat and the poorest peasantry in the form of a powerful All-Russian Soviet authority, for the purpose of abolishing the exploitation of men by men and of introducing socialism, in which there will be neither a division into classes nor a state of autocracy.

10. The Russian Republic is a free Socialist society of all the working people of Russia. The entire power, within the boundaries of the Russian Socialist Federal Soviet Republic, belongs to all the working people of Russia, united in urban and rural Soviets.

11. The Soviets of those regions which differentiate themselves by a special form of existence and national character may unite in autonomous regional unions, ruled by the local Congress of the Soviets and their executive organs.

These autonomous regional unions participate in the Russian Socialist Federal Soviet Republic upon a federal basis.

12. The supreme power of the Russian Socialist Federal Soviet Republic belongs to the All-Russian Congress of Soviets, and in periods between the convocation of the Congress, to the All-Russian Central Executive Committee.

13. For the purpose of securing to the workers real freedom of conscience, the church is to be separated from the state and the school from the church, and the right of religious and anti-religious propaganda is accorded to every citizen.

14. For the purpose of securing freedom of expression to the toiling masses, the Russian Socialist Federal Soviet Republic abolishes all dependence of the press upon capital, and turns over to the working people and the poorest peasantry all technical and material means for the publication of newspapers, pamphlets, books, etc., and guarantees their free circulation throughout the country.

15. For the purpose of enabling the workers to hold free meetings, the Russian Socialist Federal Soviet Republic offers and takes care of their heating and lighting appliances.

16. The Russian Socialist Federal Soviet Republic, having crushed the economic and political power of the propertied classes, and having thus abolished all obstacles which interfered with the freedom of organization and action of the workers and peasants, offers assistance, material and other, to the workers and the poorest peasantry in their effort to unite and organize.

17. For the purpose of guaranteeing to the workers real access to knowledge, the Russian Socialist Federal Soviet Republic sets

itself the task of furnishing full and general free education to the workers and the poorest peasantry.

18. The Russian Socialist Federal Soviet Republic considers work the duty of every citizen of the Republic, and proclaims as its motto: "He shall not eat who does not work."

19. For the purpose of defending the victory of the great peasants' and workers' revolution, the Russian Socialist Federal Soviet Republic recognizes the duty of all citizens of the Republic to come to the defense of their Socialist Fatherland, and it therefore introduces universal military training. The honor of defending the revolution with arms is accorded only to the workers, and the non-working elements are charged with the performance of other military duties.

20. In consequence of the solidarity of the workers of all nations, the Russian Socialist Federal Soviet Republic grants all political rights of Russian citizens to foreigners who live in the territory of the Russian Republic and are engaged in work and who belong to the working class. The Russian Socialist Federal Soviet Republic also recognizes the right of local Soviets to grant citizenship to such foreigners without complicated formality.

21. The Russian Socialist Federal Soviet Republic offers shelter to all foreigners who seek refuge from political or religious persecution.

22. The Russian Socialist Federal Soviet Republic, recognizing the equal rights of all citizens, irrespective of their racial or national connections, proclaims all privileges on this ground, as well as oppression of national minorities, to be contrary to the fundamental laws of the Republic.

23. Being guided by the interests of the working class as a whole, the Russian Socialist Federal Soviet Republic deprives all individuals and groups of rights which could be utilized by them to the detriment of the Socialist Revolution.

## ARTICLE THREE

### ORGANIZATION OF THE SOVIET POWER

#### A. ORGANIZATION OF THE CENTRAL POWER

##### *Chapter Six.*

The All-Russian Congress of Soviets of Workers', Peasants', Cossacks', and Red Army Deputies.

24. The All-Russian Congress of Soviets is the supreme power of the Russian Socialist Federal Soviet Republic.

25. The All-Russian Congress of Soviets is composed of representatives of urban Soviets (one delegate for 25,000 voters) and of representatives of the provincial (Gubernia) congresses of Soviets (one delegate for 125,000 inhabitants).

Note 1. In case the Provincial Congress is not called before the All-Russian Congress is convoked, delegates for the latter are sent directly from the County (Ouezd) Congress.

Note 2. In case the Regional (Oblast) Congress is convoked indirectly, previous to the convocation of the All-Russian Congress, delegates for the latter may be sent by the Regional Congress.

26. The All-Russian Congress is convoked by the All-Russian Central Executive Committee at least twice a year.

27. A special All-Russian Congress is convoked by the All-Russian Central Executive Committee upon its own initiative, or upon the request of local Soviets having not less than one-third of the entire population of the Republic.

28. The All-Russian Congress elects an All-Russian Central Executive Committee of not more than 200 members.

29. The All-Russian Central Executive Committee is entirely responsible to the All-Russian Congress of Soviets.

30. In the periods between the convocation of the Congresses, the All-Russian Central Executive Committee is the supreme power of the Republic.

### *Chapter Seven.*

#### *The All-Russian Central Executive Committee.*

31. The All-Russian Central Executive Committee is the supreme legislative, executive, and controlling organ of the Russian Socialist Federal Soviet Republic.

32. The All-Russian Central Executive Committee directs in a general way the activity of the Workers' and Peasants' Government and of all organs of the Soviet authority in the country, and it coordinates and regulates the operation of the Soviet Constitution and of the resolutions of the All-Russian Congresses and of the central organs of the Soviet power.

33. The All-Russian Central Executive Committee considers and enacts all measures and proposals introduced by the Soviet of People's Commissars or by the various departments, and it also issues its own decrees and regulations.

34. The All-Russian Central Executive Committee convokes the All-Russian Congress of Soviets, at which time the Executive Committee reports on its activity and on general questions.

35. The All-Russian Central Executive Committee forms a Council of People's Commissars for the purpose of general management of the affairs of the Russian Socialist Federal Soviet Republic, and it also forms departments (People's Commissariats) for the purpose of conducting various branches.

36. The members of the All-Russian Central Executive Committee work in the various departments (People's Commissariats) or execute special orders of the All-Russian Central Executive Committee.

### *Chapter Eight.*

37. The Council of People's Commissars is entrusted with the general management of the affairs of the Russian Socialist Federal Soviet Republic.

38. For the accomplishment of this task the Council of People's Commissars issues decrees, resolutions, orders, and, in general, takes all steps necessary for the proper and rapid conduct of government affairs.

39. The Council of People's Commissars notifies immediately the All-Russian Central Executive Committee of all its orders and resolutions.

40. The All-Russian Central Executive Committee has the right to revoke or suspend all orders and resolutions of the Council of People's Commissars.

41. All orders and resolutions of the Council of People's Commissars of great political significance are referred for consideration and final approval to the All-Russian Central Executive Committee.

Note.—Measures requiring immediate execution may be enacted directly by the Council of People's Commissars.

42. The members of the Council of People's Commissars stand at the head of the various People's Commissariats.

43. There are seventeen People's Commissars: (a) Foreign Affairs; (b) Army, (c) Navy, (d) Interior, (e) Justice, (f) Labor, (g) Social Welfare, (h) Education, (i) Post and Telegraph, (j) National Affairs, (k) Finances, (10) Ways of Communications, (m) Agriculture, (n) Commerce and Industry, (o) National Supplies, (p) State Control, (q) Supreme Soviet of National Economy, (r) Public Health.

44. Every Commissar has a Collegium (committee) of which he is the president, and the members of which are appointed by the Council of People's Commissars.

45. A People's Commissar has the individual right to decide on all questions under the jurisdiction of his Commissariat, and he is to report on his decision to the Collegium. If the Collegium does not agree with the Commissar on some decisions, the former may, without stopping the execution of the decision, complain of it to the executive members of the Council of People's Commissars or to the All-Russian Central Executive Committee.

Individual members of the Collegium have this right also.

46. The Council of People's Commissars is entirely responsible to the All-Russian Congress of Soviets and the All-Russian Central Executive Committee.

47. The People's Commissars and the Collegia of the People's Commissariats are entirely responsible to the Council of People's Commissars and the All-Russian Central Executive Committee.

48. The title of People's Commissar belongs only to the members of the Council of People's Commissars, which is in charge of general affairs of the Russian Socialist Federated Soviet Republic, and it cannot be used by any other representative of the Soviet power, either central or local.

### *Chapter Nine*

Affairs in the Jurisdiction of the All-Russian Congress and the All-Russian Central Executive Committee.

49. The All-Russian Congress and the All-Russian Central Executive Committee deal with questions of state, such as:

(a) Ratification and amendment of the Constitution of the Russian Socialist Federal Soviet Republic.

(b) General direction of the entire interior and foreign policy of the Russian Socialist Federal Soviet Republic.

(c) Establishing and changing boundaries, also ceding territory belonging to the Russian Socialist Federal Soviet Republic.

(d) Establishing boundaries for regional Soviet unions belonging to the Russian Socialist Federal Soviet Republic, also settling disputes among them.

(e) Admission of new members to the Russian Socialist Federal Soviet Republic, and recognition of the secession of any parts of it.

(f) The general administrative division of the territory of the Russian Socialist Federal Soviet Republic and the approval of regional unions.

(g) Establishing and changing weights, measures, and money denomination in the Russian Socialist Federal Soviet Republic.

(h) Foreign relations, declaration of war, and ratification of peace treaties.

(i) Making loans, signing commercial treaties and financial agreements.

(j) Working out a basis and a general plan for the national economy and for its various branches in the Russian Socialist Federal Soviet Republic.

(k) Approval of the budget of the Russian Socialist Federal Soviet Republic.

(l) Levying taxes and establishing the duties of citizens to the State.

(m) Establishing the bases for the organization of armed forces.

(n) State legislation, judicial organization and procedure, civil and criminal legislation, etc.

(o) Appointment and dismissal of the individual People's Commissars or the entire Council, also approval of the President of the Council of People's Commissars.

(p) Granting and cancelling Russian citizenship and fixing rights of foreigners.

(q) The right to declare individual and general amnesty.

50. Besides the above-mentioned questions, the All-Russian Congress and the All-Russian Central Executive Committee have charge of all other affairs which, according to their decision, require their attention.

51. The following questions are solely under the jurisdiction of the All-Russian Congress:

(a) Ratification of peace treaties.

52. The decision of questions indicated in paragraphs (c) and (h) of section 49 may be made by the All-Russian Central Executive Committee only in case it is impossible to convoke the Congress.

## B. ORGANIZATION OF LOCAL SOVIETS.

### *Chapter Ten*

#### The Congresses of the Soviets

53. Congresses of Soviets are composed as follows:

(a) Regional: of representatives of the urban and county Soviets, one representative for 25,000 inhabitants of the county,

and one representative for 5,000 voters of the cities — but not more than 500 representatives for the entire region — or of representatives of the provincial congresses, chosen on the same basis, if such a congress meets before the regional Congress.

(b) Provincial (Gubernia): of representatives of urban and rural (Volost) Soviets, one representative for 10,000 inhabitants, from the rural districts, and one representative for 2,000 voters in the city; altogether not more than 300 representatives for the entire province. In case the county congress meets before the provincial, election takes place on the same basis, but by the county congress instead of the rural.

(c) County: of representatives of rural Soviets, one delegate for each 1,000 inhabitants, but not more than 300 delegates for the entire county.

(d) Rural (Volost): of representatives of all village Soviets in the Volost, one delegate for ten members of the Soviet.

Note 1.— Representatives of urban Soviets which have a population of not more than 10,000 persons participate in the county congress; village Soviets of districts of less than 1,000 inhabitants unite for the purpose of electing delegates to the county congress.

Note 2.— Rural Soviets of less than ten members send one delegate to the rural (Volost) congress.

54. Congresses of the Soviets are convoked by the respective executive committees upon their own initiative, or upon request of local Soviets, comprising not less than one-third of the entire population of the given district. In any case they are convoked at least twice a year for regions, every three months for provinces and counties, and once a month for rural districts.

55. Every Congress of Soviets (regional, provincial, county or rural) elects its executive organ — an executive committee the membership of which shall not exceed: (a) for regions and provinces, twenty-five; (b) for a county, twenty; (c) for a rural district, ten. The executive committee is responsible to the congress which elected it.

56. In the boundaries of the respective territories the congress is the supreme power; during intervals between the convocations of the congress the executive committee is the supreme power.

*Chapter Eleven.**The Soviet of Deputies.*

57. Soviets of Deputies are formed:

(a) In cities, one deputy for each 1,000 inhabitants; the total to be not less than fifty and not more than 1,000 members.

(b) All other settlements (towns, villages, hamlets, etc.) of less than 10,000 inhabitants, one deputy for each 100 inhabitants; the total to be not less than three and not more than 50 deputies for each settlement.

Term of the deputy, three months.

Note.—In small rural sections, whenever possible, all questions shall be decided at general meetings of voters.

58. The Soviet of Deputies elects an Executive Committee to deal with current affairs; not more than five members for rural districts, one for every 50 members of the Soviets of cities, but not more than 15 and not less than three in the aggregate (Petrograd and Moscow not more than 40). The Executive Committee is entirely responsible to the Soviet which elected it.

59. The Soviet of Deputies is convoked by the Executive Committee upon its own initiative, or upon the request of not less than one-half of the membership of the Soviet; in any case at least once a week in cities, and twice a week in rural sections.

60. Within its jurisdiction the Soviet, and in cases mentioned in section 57, note, the meeting of the voters is the supreme power in the given district.

*Chapter Twelve.**Jurisdiction of the local organs of the Soviets.*

61. Regional, provincial, county and rural organs of the Soviet power and also the Soviets of Deputies have to perform the following duties:

(a) Carry out all orders of the respective higher organs of the Soviet power.

(b) Take all steps for raising the cultural and economic standard of the given territory.

(c) Decide all questions of local importance within their respective territories.

(d) Coordinate all Soviet activity in their respective territories.

62. The Congresses of Soviets and their Executive Committees have the right to control the activity of the local Soviets (i.e., the

regional Congress controls all Soviets of the respective region; the provincial, of the respective province, with the exception of the urban Soviets, etc.); and the regional and provincial Congresses and their Executive Committees have in addition the right to overrule the decisions of the Soviets of their districts, giving notice in important cases to the central Soviet authority.

63. For the purpose of performing their duties, the local Soviets, rural and urban, and the Executive Committees form sections respectively.

## ARTICLE FOUR.

### THE RIGHT TO VOTE.

#### *Chapter Thirteen.*

64. The right to vote and to be elected to the Soviets is enjoyed by the following citizens of both sexes, irrespective of religion, nationality, domicile, etc., of the Russian Socialist Federal Soviet Republic, who shall have completed their eighteenth year by the day of election:

(a) All who have acquired the means of livelihood through labor that is productive and useful to society, and also persons engaged in housekeeping which enables the former to do productive work, i. e., laborers and employees of all classes who are employed in industry, trade, agriculture, etc., and peasants and Cossack agricultural laborers who employ no help for the purpose of making profits.

(b) Soldiers of the army and navy of the Soviets.

(c) Citizens of the two preceding categories who have in any degree lost their capacity to work.

Note 1: Local Soviets may, upon approval of the central power, lower the age standard mentioned herein.

Note 2: Non-citizens mentioned in section 20 (article 2, chapter 5) have the right to vote.

65. The following persons enjoy neither the right to vote nor the right to be voted for, even though they belong to one of the categories enumerated above, namely:

(a) Persons who have an income without doing any work, such as interest from capital, receipts from property, etc.

(c) Private merchants, trade and commercial brokers.

(d) Monks and clergy of all denominations.

(e) Employees and agents of the former police, the gendarme corps, and the Okhrana (Czar's secret service), also members of the former reigning dynasty.

(f) Persons who have in legal form been declared demented or mentally deficient, and also persons under guardianship.

(g) Persons who have been deprived by a Soviet of their rights of citizenship because of selfish or dishonorable offenses, for the period fixed by the sentence.

### *Chapter Fourteen*

#### **Elections**

66. Elections are conducted according to custom on days fixed by the local Soviets.

67. Election takes place in the presence of an election committee and a representative of the local Soviet.

68. In case the representative of the Soviet cannot for valid causes be present, the chairman of the election committee takes his place, and in case the latter is absent, the chairman of the election meeting replaces him.

69. Minutes of the proceedings and results of elections are to be compiled and signed by the members of the election committee and the representative of the Soviet.

70. Detailed instructions regarding the election proceedings and the participation in them of professional and other workers' organizations are to be issued by the local Soviets, according to the instructions of the All-Russian Central Executive Committee

### *Chapter Fifteen.*

#### **The Checking and Cancellation of Elections and Recall of the Deputies.**

71. The respective Soviets receive all the records of the proceedings of the election.

72. The Soviet appoints a commission to verify the election.

73. This commission reports the results to the Soviet.

74. The Soviet decides the question when there is doubt as to which candidate is elected.

75. The Soviet announces a new election if the election of one candidate or another cannot be determined.

76. If an election was irregularly carried on in its entirety, it may be declared void by a higher Soviet authority.

77. The highest authority in relation to questions of elections is the All-Russian Central Executive Committee.

78. Voters who have sent a deputy to the Soviet have the right to recall him, and to have a new election, according to general provisions.

## ARTICLE FIVE

### THE BUDGET

#### *Chapter Sixteen*

79. The financial policy of the Russian Socialist Federal Soviet Republic in the present transmission period of dictatorship of the proletariat facilitates the fundamental purpose of expropriation of the bourgeoisie and the preparation of conditions necessary for the equality of all citizens of Russia in the production and distribution of wealth. To this end it sets forth as its task the supplying of the organs of the Soviet power with all necessary funds for local and state needs of the Soviet Republic, without regard to private property rights.

80. The state expenditure and income of the Russian Socialist Federal Soviet Republic are combined in the State budget.

81. The All-Russian Congress of Soviets or the All-Russian Central Executive Committee determine what matters of income and taxation shall go to the state budget and what shall go to the local Soviets; they also set the limits of taxes.

82. The Soviets levy taxes only for the local needs. The state needs are covered by the funds of the state treasury.

83. No expenditure out of the state treasury not set forth in the budget of income and expense shall be made without a special order of the central power.

84. The local Soviets shall receive credits from the proper People's Commissars out of the state treasury, for the purpose of making expenditures for general state needs.

85. All credits allotted to the Soviets from the state treasury, and also credits approved for local needs, must be expended according to the estimates, and cannot be used for any other purposes without a special order of the All-Russian Central Executive Committee and the Soviet of People's Commissars.

86. Local Soviets draw up semi-annual and annual estimate of income and expenditure for local needs. The estimates of urban and rural Soviets participating in county congresses, and also the estimates of the county organs of the Soviet power, are

to be approved by provincial and regional congresses or by their executive committees; the estimates of the urban, provincial and regional organs of the Soviets are to be approved by the All-Russian Central Executive Committee and the Council of People's Commissars.

87. The Soviets may ask for additional credits from the respective People's Commissariats for expenditures not set forth in the estimate, or where the allotted sum is insufficient.

88. In case of an insufficiency of local funds for local needs, the necessary subsidy may be obtained from the state treasury by applying to the All-Russian Central Executive Committee or the Council of People's Commissars.

## ARTICLE SIX.

### THE COAT OF ARMS AND FLAG OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC.

#### *Chapter Seventeen.*

89. The coat of arms of the Russian Socialist Federal Soviet Republic consists of a red cloth, in the left corner of which (on top, near the pole) are in golden characters the letters R. S. F. S. R., or the inscription: Russian Socialist Federal Soviet Republic.

Chairman of the fifth All-Russian Congress of Soviets and of the All-Russian Central Executive Committee — J. Sverdlov.

Executive Officers — All-Russian Central Executive Committee: T. I. Teodorovitch, F. A. Rosin, A. P. Rosenholz, A. C. Mitrofanov, K. G. Maximov.

Secretary of the All-Russian Central Executive Committee — V. A. Avanesov.

*Laws and Decrees.*— The following documents are taken in part from a collection in the Library of Congress at Washington and in part from a volume of laws, regulations, and decrees published by the Executive Committee of the Workers' and Soldiers' Deputies of the province of Tomsk, Russia. The documents selected have appeared in various issues of the International Relations section of the Nation.

*Land Law.*— The "Fundamental Law of Socialization of the Land" went into effect in September, 1918, replacing the earlier and briefer Land Decree of November 7, 1917.

## DIVISION I.

*General Provisions.*

Article 1. All property rights in the land, treasures of the earth, waters, forests and fundamental natural resources within the boundaries of the Russian Federated Soviet Republic are abolished.

Article 2. The land passes over to the use of the entire laboring population without any compensation, open or secret, to the former owners.

Article 3. The right to use the land belongs to those who till it by their own labor, with the exception of special cases covered by this decree.

Article 4. The right to use the land cannot be limited by sex, religion, nationality, or foreign citizenship.

Article 5. The sub-surface deposits, the forests, waters and fundamental natural resources are at the disposition (according to their character) of the county, provincial, regional and Federal Soviet powers and are under the the control of the latter. The method of disposition and utilization of the sub-surface deposits, waters and fundamental natural resources will be dealt with by a special decree.

Article 6. All private live stock and inventoried property of non-laboring homesteads pass over without indemnification to the disposition (in accordance with their character) of the county, provincial, regional and Federal Soviets without indemnification.

Article 8. All persons who are unable to work and who will be deprived of all means of subsistence by force of the decree socializing all lands, forests, inventoried property, etc., may receive a pension (for a lifetime or until the person becomes of age) upon the certification of the local courts and the land departments of the Soviet power, such as a soldier receives, until such time as the decree for the insurance of the incapacitated is issued.

Article 9. The apportionment of lands of agricultural value among the laboring people is under the jurisdiction of the Volostnoi (several villages), county, provincial, regional and Federal land departments of the Soviets in accordance with their character.

Article 10. The surplus lands are under the supervision, in every republic, of the land departments of the regional and Federal Soviets.

Article 11. The land departments of the local and central Soviets are thus entrusted with the equitable apportionment of the land

among the working agricultural population, and with the productive utilization of the natural resources. They also have the following duties:

(a) Creating favorable conditions for the development of the productive forces of the country by increasing the fertility of the land, improving agricultural technique, and, finally, raising the standard of agricultural knowledge among the laboring population.

(b) Creating a surplus fund of lands of agricultural value.

(c) Developing various branches of agricultural industry, such as gardening, cattle-breeding, dairying, etc.

(d) Accelerating the transition from the old unproductive system of field cultivation to the new productive one (under various climates), by a proper distribution of the laboring population in various parts of the country.

(e) Developing collective homesteads in agriculture (in preference to individual homesteads) as the most profitable system of saving labor and material, with a view to passing on to Socialism.

Article 12. The apportionment of land among the laboring population is to be carried on on the basis of each one's ability to till it and in accordance with local conditions, so that the production and consumption standard may not compel some peasants to work beyond their strength; and at the same time it should give them sufficient means of subsistence.

Article 13. Personal labor is the general and fundamental source of the right to use the land for agricultural purposes. In addition, the organs of the Soviet power, with a view to raising the agricultural standard (by organizing model farms or experimental fields), are permitted to borrow from the surplus land fund (formerly belonging to the Crown, monasteries, clergy, or landowners) certain plots and to work them by labor paid by the state. Such labor is subject to the general rules of workmen's control.

Article 14. All citizens engaged in agricultural work are to be insured at the expense of the state against old age, sickness, or injuries which incapacitates them.

Article 15. All incapacitated agriculturists and the members of their families who are unable to work are to be cared for by the organs of the Soviet power.

Article 16. Every agricultural homestead is to be insured against fire, epidemics among cattle, poor crops, dry weather, hail, etc., by means of mutual Soviet insurance.

Article 17. Surplus profits, obtained on account of the *natural* fertility of the land or on account of its location near markets, are to be turned over for the benefit of social needs to the organs of the Soviet power.

Article 18. The trade in agricultural machinery and in seeds is monopolized by the organs of the Soviet power.

Article 19. The grain trade, internal as well as export, is to be a state monopoly.

## DIVISION II.

### *Who Has the Right to Use the Land.*

Article 20. Plots of land may be used in the Russian Federated Soviet Republic for the following social and private needs:

#### A. Cultural and educational:

1. The state, in the form of the organs of the Soviet power (Federal, regional, provincial, county, and rural).

2. Social organizations (under the control and by permission of the local Soviets).

#### B. For agricultural purposes:

3. Agricultural communities.

4. Agricultural associations.

5. Village organizations.

6. Individuals and families.

#### C. For construction purposes:

7. By the organs of the Soviet power.

8. By social organizations, individuals, and families (if the construction is not a means of obtaining profits).

9. By industrial, commercial, and transportation enterprises (by special permission and under the control of the Soviet power).

#### D. For constructing ways of communication:

10. By organs of the Soviet power (Federal, regional, provincial, county, and rural, according to the importance of the ways of communication).

## DIVISION III.

### *The Order in Which Land is Apportioned.*

Article 21. Land is given to those who wish to work it themselves for the benefit of the community and not for personal advantage.

Article 22. The following is the order in which land is given for personal agricultural needs:

1. To local agriculturists who have no land or a small amount of land, and to local agricultural workers (formerly hired), on an equal basis.

2. Agricultural emigrants who have come to a given locality after the issuance of the decree of socialization of the land.

3. Non-agricultural emigrants in the order of their registration at the land departments of the local Soviets.

Note.—When arranging the order of the apportionment of land, preference is given to laboring agricultural associations over individual homesteads.

Article 23. For the purpose of gardening, fishing, cattle-breeding, or forestry, land is given on the following basis:

(1) Land which cannot be tilled; (2) land which can be tilled, but which on account of its location is preferably to be used for other agricultural purposes.

Article 24. In rural districts, land is used for construction purposes in accordance with the decision of the local Soviets and the population.

In cities, land may be obtained in the order in which applications are filed with the respective local Soviets, if the construction planned does not threaten to harm the neighboring buildings and if it answers all other requirements of the building regulations.

Note.—For the purpose of erecting social buildings, land is given regardless of the order in which applications are filed.

#### DIVISION IV.

##### *The Standard of Agricultural Production and Consumption.*

Article 25. The amount of land given to individual homesteads for agricultural purposes, with a view to obtaining means of subsistence, must not exceed the standard of agricultural production and consumption as determined on the basis indicated in the instruction following.

##### *Instruction for Determining the Production and Consumption Standard for the Use of Land of Agricultural Value.*

1. The whole of agricultural Russia is divided into as many climatic sections as there are field cultivation systems historically in existence at the given agricultural period.

2. For every agricultural section a special production and consumption standard is set. Within the section the standard may be changed in accordance with the climate and the natural fertility of the land, also in accordance with its location (near a market or railway) and other conditions which are of great local importance.

3. For an exact determination of the standard of each section, it is necessary to take an All-Russian agricultural census in the near future.

Note.—After the socialization of the land has been accomplished, it is necessary to survey it immediately and to determine its topography.

4. The apportionment of land on the production and consumption basis among the agricultural population is to be carried on gradually in various agricultural sections, according to regulations herein.

Note.—Until the socialization of land is entirely accomplished, the relations of agriculturists will be regulated by the land departments of the Soviets in accordance with a special instruction.

5. For the determination of the production and consumption standard of a given climatic section, it is necessary to take the standard (an average agricultural homestead) of one of the counties of that section (or another agricultural standard of equal size) with a small population, and with such a proportion of various agricultural advantages as, in the opinion of the local inhabitants (regional or provincial congress of the land departments of the Soviets), will be recognized as the most normal, i. e., the most favorable for the type of field cultivation which predominates in that climatic section.

6. For the determination of what an average agricultural homestead is, it is necessary to take into consideration only those lands which were actually in the possession of working peasants down to 1917, i. e., lands bought by peasant organizations, associations, individuals, and entailed and rented lands.

7. Forests, sub-surface deposits, and waters are not to be considered in this determination.

8. Private lands which were never used for agricultural purposes, and which were actually in the possession of the state, private banks, monasteries, or land owners, will not be taken into

consideration in this determination, as they will constitute the surplus land fund which will serve to supply the landless peasants and those who have less land than the peasants' production and consumption standard calls for.

9. For determining the entire amount of land which was in actual possession of the working peasants down to the revolution of 1917, it is necessary to determine its quantity according to its special character (field, pasture, meadow, drainage, gardens, orchards, estates).

10. This determination must be made in exact figures, as well as in the proportion of the entire quantity to each individual homestead, settlement, village, county, province, or region, or the entire climatic section of the given system of field cultivation.

11. When thus determining the entire quantity of land, it is necessary to determine the quality of each acre of a typical field or meadow by ascertaining the amount (in poods) of grain or hay yielded by an acre of land of the given section for the past ten years.

12. When determining the quantity and quality of land, it is necessary to determine at the same time the entire population of the given climatic section engaged in agriculture, and also that part of the population which subsists at the expense of agriculture.

13. The census of the inhabitants engaged in agricultural work is to be taken by sex, age, and family for each homestead separately, and later the information obtained is to be classified by villages, counties and provinces of the given section.

When taking the census of the population it is necessary to determine the number of workingmen and members dependent upon them and for that purpose the entire population is divided into the following classes according to age:

*Those Unable to Work.*

Girls .....	to 12 years of age.
Boys .....	to 12 years of age.
Men .....	from 60 years of age.
Women .....	from 50 years of age.

Those incapacitated by physical or mental illness are recorded separately.

*Those Able to Work.*

Men from 18 to 60 — 1.0 unit of working strength.

Women from 18 to 50 — 0.8 unit of working strength.

Boys from 12 to 16 — 0.5 unit of working strength.

Girls from 12 to 16 — 0.5 unit of working strength.

Boys from 16 to 18 — 0.75 unit of working strength.

Girls from 16 to 18 — 0.6 unit of working strength.

Note.— These figures may be changed in accordance with climatic and customary conditions by decision of the appropriate organs of the Soviet power.

15. By dividing the number of acres by the number of working units, the number of acres to each unit may be obtained.

16. The number of incapacitated members to each working unit may be obtained by dividing the entire incapacitated element by the total working units.

17. It is also necessary to describe and figure out the number of work animals and cattle that can be fed on one acre of land and with one working unit.

18. For determining what an average landowning peasant is in a county, it is necessary to ascertain the average acre in quality and fertility. This average is the sum of crops from various soils divided by the number of soil categories. (Paragraph 9).

19. The average obtained as above is to serve as a basis for determining the production and consumption standard by which all the homesteads will be equalized from the surplus land fund.

Note.— In case the average, as indicated above, obtained at the preliminary calculations, proves insufficient for existence (see division 1, article 12), it may be increased from the surplus land fund.

20. For determining the amount of land needed for additional distribution among peasants, it is necessary to multiply the number of acres of land to each working unit in a county by the sum of agricultural working units of the given climatic section, and to subtract from the product the amount of land which the working population have on hand.

21. Further, upon ascertaining the number of acres of land (in figures and percentage according to character) which the surplus land fund has, and comparing this figure with the quantity of land necessary for additional distribution among peasants who have not sufficient land, the following is to be determined: Is it possible to confine emigration within the boundaries of the given

climatic sections? If so, it is necessary to determine the size of the surplus land fund and its capacity. If it is not possible to confine it within the given climatic section, ascertain how many families will have to emigrate to another section.

Note.—The main land departments of the Soviet power must be informed of the quality of surplus land, as well as of a lack of the same; and the location, amount and kind of unoccupied lands must be indicated.

22. When additional distribution takes place, it is necessary to know the exact amount and quality of land which the peasants have, the number of cattle on hand, the number of members of the families, etc.

23. When additional distribution takes place in accordance with the production and consumption standard, this standard must be raised in the following cases:

1. When the working strength of a family is overtaxed by the number of incapacitated members; (a) when the land which the family has on hand is not sufficiently fertile; (3) in accordance with the quality of such land of the surplus fund as is given to the peasant. (The same applies to meadows.)

25. When an additional apportionment of land takes place and the given district lacks certain advantages, the peasant gets a certain amount of land possessing other advantages.

#### DIVISION V.

##### *Standard for the Utilization of Land for Construction, Agricultural, and Educational Purposes, Etc.*

Article 25. When land is apportioned for educational and industrial purposes and also for the erection of dwellings, for cattle breeding and other agricultural needs (with the exception of field cultivation), the quantity of land to be apportioned shall be determined by the local Soviets in accordance with the needs of the individuals or organizations which ask permission to use the land.

#### DIVISION VI.

##### *Emigration.*

Article 27. In case the surplus land fund in the given section proves to be insufficient for additional distribution among peasants, the surplus of the population may be transferred to another section where there is sufficient surplus land.

## ARTICLE SEVEN.

TRANSFER FROM ONE SECTION TO ANOTHER IS TO TAKE PLACE ONLY AFTER THE PEASANTS OF THE LATTER SECTION ARE ALL DISTRIBUTED.

Article 29. The emigration from one section to another, as well as the distribution of the inhabitants within the section, must be carried on as follows: At first those who are furthest away from the surplus fund are to emigrate, so that

(a) The land of the surplus fund is used first of all by the peasants of that village or hamlet in the vicinity of which the surplus land fund lies.

Note: If there are several such villages, preference is given to those that tilled the land before.

(b) The second place is given to the peasants of the Volost within the boundaries of which the surplus land lies.

(c) The third place is given to the peasants of the county within the boundaries of which the surplus land lies.

(d) Finally, if the given system of field cultivation covers several provinces, the peasants of the province within the boundaries of which the surplus land lies receive additional land.

Article 30. The emigration accordingly runs in the following order: (a) Volunteers are the first to emigrate; (b) those organizations which suffer most from lack of land; (c) agricultural associations, communities, large families, and small families which have small amounts of land.

Article 31. The apportionment of land among agriculturists who have to emigrate is to be carried on as follows: In the first place, small families suffering from lack of land; second, large families suffering from lack of land; third, other families suffering from lack of land; fourth, agricultural associations; and, finally, communities.

Article 32. The transfer of peasants from one section to another is to be done with consideration, so that the new place shall give the peasant a chance to cultivate land successfully and the climatic conditions shall be analogous to those of his previous domicile. In that case it is necessary to take into consideration the customs and nationality of the emigrants.

Article 33. The cost of transferring peasants to new places is to be provided by the state.

Article 34. In connection with the transfer, the state is to help the peasants in the building of homes, roads, drains, and wells, in obtaining agricultural machinery and artificial fertilizers, by creating artificial water systems (when necessary), and by erecting educational centers.

Note.—For the purpose of expediting the establishment of agricultural work on a socialistic basis, the state offers to extend to the emigrants every aid necessary for a systematic and scientific management of collective homesteads.

## DIVISION VII.

### *Form of Utilization of Land.*

Article 35. The Russian Federated Soviet Republic, for the purpose of attaining socialism, offers to extend aid (cultural and material) to the general tilling of land, giving preference to the communistic and cooperative homesteads over individual ones.

Article 36. Lands of cooperative and individual homesteads must, if possible, be in the same location.

## DIVISION VIII.

### *Obtaining Rights to the Use of Land.*

Article 37. Land may be obtained:

- (a) For educational purposes.
  - 1. Social usefulness.
- (b) For building purposes.
  - 1. Social buildings.
  - 2. Dwellings.
  - 3. The necessity of conducting a working homestead.
- (d) For the purpose of constructing ways of communication.
  - 1. Public necessity.

## DIVISION IX.

### *The Order in Which the Right to Use the Land May Be Obtained*

Article 38. An application must be filed with the land department of the Soviet power in whose jurisdiction the desired land lies.

Article 39. The application shows the order in which the permission to use the land is granted. The permission is granted on the basis of the general provisions of this decree.

Note.—The application should contain the following information, in addition to the full name and address of the person who desires to use the land: former occupation, the purpose for which land is desired, the inventory on hand, the location of the desired plot and its size.

Note.—If the land department of the Volostnoi Soviet refuses to grant the permission to use the land, the question may be brought (within one week) to the notice of the land department of the county Soviet; if the county Soviet refuses, it may be presented to the land department of the provincial Soviet within two weeks.

Note.—The right to use land (sub-surface deposits, waters, forests, and fundamental natural resources) cannot be obtained under any circumstances through purchase, rental, inheritance, or any other private transaction.

#### DIVISION X.

Article 40. The right to use the land becomes effective in the following order.

Article 41. The right to use land for construction purposes becomes effective upon actual occupation of the plot or upon preparations for its occupation, but not later than three months after the receipt of permission from the local Soviet.

Note.—By actual preparations is meant the delivery of building materials to the place of destination or the closing of a contract with workers.

Article 42. The right to use land for agricultural purposes (on the basis of personal labor) becomes effective upon beginning the work at the opening of the next agricultural season.

Article 43. The right to use the land for field cultivation becomes effective upon the actual beginning of field work (without hired help) at the opening of the agricultural season next after the receipt of a permit from the local Soviet.

Note.—Buildings may be erected on plots of land that may be tilled only by special permission of the land department of the Soviet government.

Article 44. In case of actual inability to use the plot in the period of time allowed by the land department, the latter may extend the period if there is valid cause, i. e., the illness of the working hands, trouble brought about by epidemics, etc.

## DIVISION XI.

*Transfer of Right to Use Given Plots of Land.*

Article 45. The right to use the land is not transferable.

Article 46. The right to use land may be obtained by anyone on the basis of this decree, and it cannot be transferred from one person to another.

## DIVISION XII.

*Temporary Cancellation of the Right to Use the Land.*

Article 47. Any land-borrower's right to use the plot of land may be suspended for a certain length of time, without cancelling it entirely.

Article 48. Any land-borrower may cease utilizing the land at a certain time and still have the right to it (a) if natural calamities (floods, etc.) deprive him of the possibility; (b) if the agriculturist is temporarily ill; (c) if the agriculturist is called to do some government duty; or for other cause valid from the social point of view. He may hold it until such time as conditions are favorable for the utilization of his plot.

Note.—The period of such temporary cessation is to be determined in each case by the land department of the local Soviet.

Article 49. Upon every temporary cessation of the use of the land (as indicated in Article 48), the local Soviet either organizes community help to the agriculturist or calls upon the workers, paid by the state and subject to the general regulations of workers' control, to do the work of the afflicted agriculturist (temporary incapacity, death, etc.), so as to save his property and proceed with production.

## DIVISION XIII.

*Cessation of the Right to Use the Land.*

Article 50. The right to use the land may cease for an entire agricultural unit, or for individual members of the same.

Article 51. The right of the given individual to use the land may cease for the whole plot or for a part of it.

Article 52. The right is cancelled (a) if the organization, or the purpose for which it had taken land, is declared void; (b) if units, associations, communities, etc., disintegrate; (c) if the individual finds it impossible to cultivate the field or do other agri-

cultural work, and if at the same time the individual has other means of subsistence (for instance, a pension paid to the incapacitated); (d) upon the death of the individual, or when his civil rights are cancelled by the court.

Article 53. The right to use a plot of land ceases (a) in case of a formal refusal to use the plot; (b) in case of obvious unwillingness to use the plot, although no formal refusal has been filed; (c) in case the land is used for illegal purposes (e. g., throwing garbage); (d) in case the land is exploited by illegal means (e. g., hiring land secretly); (e) in case the use of the land by a given individual brings injury to his neighbor (e. g., manufacture of chemicals).

Note.—The land borrower, upon cessation of his right to the use of the land, has the right to demand from the respective land departments of the Soviets a fee for the unused improvements and labor invested in the land, if the given plot did not bring him sufficient profit.

Chairman of the All-Russian Central Executive Committee: Sverdlov:

Members of the Executive Body: Spiridonova, Mouranov, Zinoveiv, Oustinov, Kamkov, Lander, Skoulov, Volodarsky, Peterson, Natanson-Bobrov.

Secretaries of the Central Executive Committees: Avanessov, Smoliansky.

Chairman of the Soviet of People's Commissaries: V. Oulianov (Lenine).

People's Commissar of Agriculture: A. Koleguev.

## DECLARATION OF THE RIGHTS OF THE PEOPLE OF RUSSIA

The October revolution of the workmen and peasants began under the common banner of emancipation.

The peasants are being emancipated from the power of the landowners, for there is no longer the landowner's property right in the land — it has been abolished. The soldiers and sailors are being emancipated from the power of autocratic generals, for generals will henceforth be elective and subject to recall. The workingmen are being emancipated from the whims and arbitrary will of the capitalists, for henceforth there will be established the control of the workers over mills and factories. Everything living and capable of life is being emancipated from the hateful shackles.

There remain only the peoples of Russia, who have suffered and are suffering oppression and arbitrariness, and whose emancipation must immediately be begun, whose liberation must be effected resolutely and definitively.

During the period of Czarism the peoples of Russia were systematically incited against one another. The results of such a policy are known; massacres and pogroms on the one hand, slavery of peoples on the other.

There can be and there must be no return to this disgraceful policy of instigation. Henceforth the policy of a voluntary and honest union of the peoples of Russia must be substituted.

In the period of imperialism, after the February revolution, when the power was transferred to the hands of the Cadet bourgeoisie, the naked policy of instigation gave way to one of cowardly distrust of the peoples of Russia, to a policy of fault-finding and provocation, of "freedom" and "equality" of peoples. The results of such a policy are known: the growth of national enmity, the impairment of mutual trust.

An end must be put to this unworthy policy of falsehood and distrust, of fault-finding and provocation. Henceforth it must be replaced by an open and honest policy which leads to complete mutual trust of the people of Russia. Only as the result of such a trust can there be formed an honest and lasting union of the peoples of Russia. Only as the result of such a union can the workmen and peasants of the peoples of Russia be cemented into one revolutionary force able to resist all attempts on the part of the imperialist-annexationist bourgeoisie.

Starting with these assumptions, the first Congress of Soviets, in June of this year, proclaimed the right of the peoples of Russia to free self-determination.

The second Congress of Soviets, in October of this year, reaffirmed this inalienable right of the peoples of Russia more decisively and definitively.

The united will of these congresses, the Counsel of the peoples commissaries, resolved to base their action regarding the question of the nationalities of Russia upon the following principles:

1. The equality and sovereignty of the peoples of Russia.
2. The right of the peoples of Russia to free self-determination, even to the point of separation and the formation of an independent state.
3. The abolition of any and all national and national-religious privileges and disabilities.
4. The free development of national minorities and ethnographic groups inhabiting the territory of Russia.

The specific decrees which are to follow will be framed immediately upon the formation of a commission for the affairs of nationalities.

In the name of the Russian Republic, People's Commissar for Affairs of Nationalities:

JOSEPH DJUGASHVILI-STALINE,  
President of the Council of the People's Commissars:  
V. OULIANOW (LENINE)

## **DECLARATION OF THE RIGHTS OF THE LABORING AND EXPLOITED PEOPLE**

The form of the following declaration is explained by the fact that it was prepared for submission to the Constituent Assembly, which, however, broke up without acting upon it.

The Central Executive Committee proclaims the following basic principles:

### I.

The Constituent Assembly resolves:

Russia is declared to be a Republic of Soviets of Workmen's, Soldiers' and Peasants' Deputies. All the power in the center and in the provinces belongs to these Soviets.

2. The Russian Soviet Republic is formed on the basis of a free union of free nations, as a federation of national Soviet republics.

### II.

Taking as its fundamental past the abolition of any exploitation of man by men, the complete elimination of the division of society into classes, the ruthless suppression of exploiters, the establishment of a Socialistic organization of society, and the victory of Socialism in all countries, the Constituent Assembly resolves, further:

1. To effect the Socialization of the land, private ownership of land is abolished, and the whole land fund is declared common national property and transferred to the laborers without compensation, on the basis of equalized use of the soil.

All forests, minerals and waters of state-wide importance, as well as the whole inventory of animate and inanimate objects, all estates and agricultural enterprises, are declared national property.

2. The Soviet law of labor control and the Supreme Board of national economy are confirmed, with a view to securing the authority of the toilers over the exploiters, as the first step to the complete transfer of all factories, mills, mines, railways, and other means of production and transportation to the ownership of the Workmen's and Peasants' Soviet Republic.

3. The transfer of all banks to the ownership of the Workers' and Peasants' state is confirmed, this being one of the conditions of the emancipation of the laboring masses from the yoke of capital.

4. With a view to the destruction of the parasitic classes of society and the organization of the national economy, universal labor service is established.

5. In the interest of securing all the power for the laboring masses and the elimination of any possibility of the re-establishment of the power of the exploiters, the arming of the toilers, the formation of a Socialistic red army of workmen and peasants, and the complete disarmament of the wealth classes are decreed.

### III.

1. Expressing its inflexible determination to wrest humanity from the talons of financial capital and imperialism, which have dredged the earth with blood in this most criminal of wars, the Constituent Assembly subscribes unanimously to the policy of abrogating secret treaties which has been adopted by the Soviet government, the organization of the widest fraternization with the workmen and peasants of the armies now warring against each other, and the securing, at any cost and by revolutionary measures, of a democratic peace without annexations and indemnities, on the basis of free self-determination of peoples.

2. For these same purposes, the Constituent Assembly insist upon a complete break with the barbarous policy of bourgeois civilization, which built the prosperity of the exploiters among the few chosen nations upon the enslavement of hundreds of millions of the laboring population in Asia, in the colonies in general, and in the small countries.

The Constituent Assembly welcomes the policy of the Council of the Peoples' Commissaries which has proclaimed the complete independence of Finland, which has begun the removal of the troops from Persia, and which has declared the freedom of self-determination of Armenia.

The Constituent Assembly views the Soviet law of the repudiation of the loans contracted by the government of the Czar, the land owners and the bourgeoisie, as the first blow to international banking, finance and capital, and expresses its confidence that the Soviet authority will continue to pursue that course until the complete victory of the rising of international labor against the yoke of capital is attained.

### IV

Having been elected on the basis of party lists made up before the October revolution, when the people could not get rise en

masse against the exploiters and did not know the strength of the opposition when the latter defends its past privileges, and when the people had not yet practically undertaken the creation of a Socialistic society, the Constituent Assembly would deem it radically wrong, even from a formal point of view, to set itself in opposition to the Soviets.

In substance, the Constituent Assembly considers that now, at the moment of the decisive battle of the people with their exploiters, there can be no place for the latter in any of the organs of government. The power must belong wholly and exclusively to the toiling masses and their plenipotentiaries, the Soviets of Workmen's Soldiers and Peasants' Delegates.

Supporting the Soviet government and the decrees of the Council of the Peoples' Commissaries, the Constituent Assembly recognizes that its tasks are completed when it has framed a general statement of the fundamental basis of a socialistic reconstruction of society.

At the same time, aiming at the creation of a really free and voluntary and, consequently, a more complete and lasting union of the laboring classes of all the nations of Russia, the Constituent Assembly, confines itself to the establishment of the fundamental principles of federation of the Soviet Republic of Russia, leaving it to the workmen and peasants of each nation to decide independently, at their own representative Soviet Congress, whether they wish to participate in the Federal Government and in the other Soviet institutions, and on what basis.

#### ABOLITION OF CLASSES AND CIVIL RANKS.

1. All classes and class divisions of citizens, class privileges and disabilities, class organizations and institutions which have until now existed in Russia, as well as all civil ranks, are abolished.

2. All designations (as merchant, nobleman, burgher, peasant, etc.), titles (as Prince, Count, etc.), and distinctions of civil ranks (Privy, State, and other Councillors), are abolished and one common designation is established for all the population of Russia — citizen of the Russian Republic.

3. The properties of the noblemen's class institutions are hereby transferred to corresponding Zemstvo self-governing bodies.

4. The properties of merchants' and burghers' associations are hereby placed at the disposal of corresponding municipal bodies.

5. All class institutions, transactions, and archives are hereby transferred to the jurisdiction of corresponding municipal and Zemstvo bodies.

6. All corresponding clauses of the laws which have existed until now are abolished.

7. This decree becomes effective from the day of its publication, and is to be immediately put into effect by the local Soviets of Workmen's, Soldiers', and Peasants' Deputies.

President of the Central Executive Committee:

YA. SVERDLOV.

President of the Council of People's Commissars:

VI. OULIANOV (Lenine).

Director of the Affairs of the Council of People's Commissars:

BONCH-BRUYEVICH.

Secretary to the Council:

N. GORBOUNOV.

#### CHURCH AND STATE.

1. The church is separated from the state.

2. Within the limits of the Republic, it is prohibited to pass any local laws or regulations which would restrict or limit the freedom of conscience or establish any kind of privileges or advantages on the ground of the religious affiliations of citizens.

3. Every citizen may profess any religion or none at all, any legal disabilities connected with the profession of any religion or none are abolished.

Note.— From all official acts any indication of the religious affiliation or non-affiliation of citizens is to be omitted.

4. The proceedings of state and other public legal institutions are not to be accompanied by any religious customs or ceremonies.

5. The free observance of religious customs is guaranteed insofar as the same do not disturb the public order and not accompanied by attempts upon the rights of the citizens of the Soviet republic. The local authorities have the right to take all necessary measures for the preservation, in such cases, of public order and security.

6. No one may decline to perform his civil duties, giving as a reason his religious views. Exemptions from this law, conditioned upon the substitution of one civil duty for another, are permitted by the decision of the people's court in each individual case.

7. Religious or judicial oaths are abolished; in necessary cases a solemn promise only is given.

8. Acts of a civil nature are performed exclusively by civil authorities, such as departments of registration of marriages and births.

9. The school is separated from the church. The teaching of religious doctrines in all state and public, as well as in private, educational institutions in which general subjects are taught is forbidden. Citizens may teach and study religion privately.

10. All church and religious societies are subject to the general regulations governing private associations and unions, and do not enjoy any privileges or subsidies either from the state or from its local autonomous and self-governing institutions.

11. Compulsory collections of payments and assessments for the benefit of church or religious societies, or as a means of compulsion or punishment of their co-members on the part of these societies, is not allowed.

12. No church or religious society has the right to own property. They have no rights of a juridical person.

13. All the properties of the existing church and religious societies in Russia are declared national property. Buildings and articles specially designated for religious services are, by special decisions of the local or central state authorities, given for the free use of corresponding religious societies.

President of the Council of the People's Commissars:

OULIANOV (LENINE).

Commissars:

PODVOISKY, ALGASSOV, TRUTOVSKY,  
SHLIKHTER, PROSHIAN, MENZHINSKY,  
SHLIAPNIKOV, PETROVSKY.

Director of the Affairs of the Government:

BONCH-BRUYEVICH.

Secretary to the Council of the People's Commissars:

GORBOUNOV.

## **SUPREME BOARD OF NATIONAL ECONOMY**

1. The Supreme Board of National Economy is established under the Council of the People's Commissaries.

2. The task of the Supreme Board of National Economy is the organization of the National Economy and State Finances. For that purpose the Supreme Board of National Economy elaborates general standards and a plan for the regulation of the economic life of the country coordinates and unifies the activity of the Central and local regulating institutions (fuel board, metal board, transport board, central supplies committee, etc., and the respective People's Commissaries of commerce and industry, supplies, agriculture, finance, war and navy, etc.) of the All-Russian Board of Workmen's control, and also of the corresponding activities of factory and trade organizations of the working class.

3. The Supreme Board of National Economy is given the right of confiscation, requisition, sequestration and compulsory syndication of various branches of industry and commerce, and other measures in the domain of production, distribution and state finance.

4. All existing institutions for the regulation of the national economy are subordinated to the Supreme Board of National Economy which is given the right to reform them.

5. The Supreme Board of National Economy is formed (a) of the All-Russian Board of Workmen's Control, whose personnel is determined by the decree of November 14, 1917; (b) of representatives of all the People's Commissaries; (c) of learned persons who are invited and have a consulting voice.

6. The Supreme Board of National Economy is divided into sections and departments (as fuel, metal, demobilization, finance, etc.), and the number and the sphere of activity of these sections and departments are determined by the entire Board.

7. The department of the Supreme Board of National Economy conduct the work of regulating the separate branches of national economic life, and also prepare the measures of the respective People's Commissaries.

8. The Supreme Board of National Economy forms out of its membership a bureau of fifteen persons, for the coordination of the current work of the sections and departments and the performance of tasks which demand immediate attention.

9. All projects of law and large measures which have reference to the regulation of the national economy in its entirety are submitted to the Council of the People's Commissaries through the Supreme Board of National Economy.

10. The Supreme Board of National Economy unifies and directs the Soviets of Workmens', Soldiers' and Peasants' Deputies, which include the local organs of workmen's control, and also the local commissaries of labor, commerce and industry, supplies, etc. In the absence of corresponding economic branches, the Supreme Board of National Economy forms local organs.

All decisions of the Supreme Board of National Economy are binding upon the economic departments of the local Soviets, which constitutes the local organs of the Supreme Board of National Economy.

President of the Central Executive Committee:

YA SVERDLOV.

President of the Council of People's Commissars:

VI. OULIANOY (Lenine).

People's Commissars:

L. TROTSKY, L. STASHIN,

N. AVILOV (N. GLYEBOV).

Director of the Affairs of the Council of People's Commissars:

BONCH-BRUYEVICH.

Secretary:

N. GORBOUNOV.

### **NATIONALIZATION OF BANKS**

In the interest of the regular organization of the national economy, of the thorough eradication of bank speculation, and the complete emancipation of the workmen, peasants and the whole laboring population from the exploitation of banking capital, and with a view to the establishment of a single national bank of the Russian Republic which shall serve the real interests of the people and the poorer classes, the Central Executive Committee resolves:

1. The banking business is declared a state monopoly.
2. All existing private joint-stock banks and banking offices are merged in the state bank.
3. The assets and liabilities of the liquidated establishments are taken over by the state bank.
4. The order of the merger of private banks in the state bank is to be determined by a special decree.
5. The temporary administration of the affairs of the private banks is entrusted to the board of the state bank.
6. The interests of the small depositors will be safeguarded.

December 14, 1917.

## REGIONAL AND LOCAL BOARDS OF NATIONAL ECONOMY

1. For the purpose of the organization and regulation of the entire economic life of every industrial region, in conformity with general state and local interests, under the regional and local Soviets of Workmen's, Soldiers' and Peasants' Deputies, there are organized regional Boards of National Economy, as local institutions for the organization and the regulation of production, directed by the Supreme Board of National Economy and acting under the general control of the respective Soviet of Workmen's, Soldiers' and Peasants' Deputies.

2. The Regional Board of National Economy is formed (a) of the collegia elected at the joint conferences of producers' trade unions and factory committees (mining, commercial, industrial, transport, etc.) and also at conferences of land committees called by the Soviets of Workmen's, Soldiers' and Peasants' Deputies; (b) of representatives of Soviets of Workmen's, Soldiers' and Peasants' Deputies and democratic cooperative societies; (c) of representatives of the technical, administration and commercial management of enterprises (numbering not more than one-third of the entire membership of the Board).

Representatives of departments participate in the deliberations of the regional Board of National Economy and have a consulting voice.

3. The Regional Board of National Economy is divided into sections, according to the branches of economic life; (1) state economy and banks; (2) fuel; (3) metal manufacture; (4) textile manufacture; (5) cotton manufacture; (6) wood; (7) mineral substances; (8) animal products; (9) food products; (10) chemical products; (11) construction works; (12) transport; (13) agriculture; (14) supplies and consumption, or other sections which the Regional Board of National Economy, owing to local circumstances, may find necessary.

Each section which takes charge of any branch of production is divided into four main departments: (1) organization; (a) management, (b) financing and (c) technical organization of enterprises; (2) supply and distribution; (3) labor; (4) statistical. Similar departments of the sections, by meeting jointly, form conferences (1) on organization, (2) on supplies and distribution (3) on labor questions, (4) on statistics. They maintain permanent business bureaus.

The Board of National Economy forms also other intersectoral conferences, as on demobilization, etc.

4. The Regional Board of National Economy elects an executive committee which directs all the activity of the Board, the departments, sections and bureaus.

The Regional Board of National Economy elects a presidium which constitutes the presidium of the executive committee and of the separate committees of the Regional Board of National Economy.

5. The Regional Board of National Economy has jurisdiction over the following matters:

(a) The consideration and solution of questions of principle and those common to the whole region; the unification and direction of the activities of the lower organs of workmen in the region, the regulation of their mutual relations, the composition and elaboration of detailed instructions for them regarding various questions of control.

(b) The direction, under the supervision of the Supreme Board of National Economy, of the management of private enterprises which have become the property of the Republic

(c) The investigation of conflicts not settled by the local organs.

(d) The investigation of all the needs of the region as to fuel, raw material, means of production, labor force, transportation, facilities, supplies, and, in general, articles of prime necessity.

(e) The account of raw material, unfinished products, goods, labor forces, implements, and other articles of production.

(f) The taking of measures for the satisfaction of the wants and economic needs of the population, rural economy, etc.

(g) The establishment of regulations and plans for the distribution of general state supplies in the region.

(h) The formation of plans for the distribution of orders among the enterprises.

(i) The regulation of transport in the region.

(j) The establishment of strict supervision over the entire economic life of the region with regard to organization, finances, etc.

(k) The taking of measures for the most complete utilization of the productive forces of the region, in the industries as well as in rural economy.

(l) The establishment of bases of distribution of the labor forces, materials, fuel, means of production, goods, supplies, etc.

(m) The taking of measures for the improvement of the sanitary and hygienic conditions of labor.

6. All regulating institutions of local significance come under the jurisdiction of the respective Regional Boards of National Economy, and all employees, together with the technical and administrative apparatus, are placed at the disposal of the Regional Board of National Economy.

7. All decisions of the Regional Board of National Economy have a compulsory character, and must be carried out by all local institutions and also by the directorates of enterprises.

The decisions of the Regional Board of National Economy may be suspended and vacated only by the Supreme Board of National Economy.

8. The limits of the economic regions are fixed by a congress of Regional Boards of National Economy and, until its meetings, by the Supreme Board of National Economy.

9. All Regional Boards of National Economy must, immediately upon formation, enter into business connection with the Supreme Board of National Economy, obeying its directions upon questions affecting general state interests.

10. The formation of Boards of National Economy of smaller regions (provincial, district, etc.), modeled after the organization of Regional Boards of National Economy, is left to the initiative of provincial Soviets of Workmen's, Soldiers' and Peasants' Deputies. The establishment of the sphere of their activity and their general direction and co-ordination devolve upon the Regional Board of National Economy.

Chairman of the Supreme Board of National Economy;  
V. OBOLENSKY

(Passed at the meeting of the Supreme Board of National Economy on December 23, 1917.)

## **THE PROVINCIAL SOVIET ORGANIZATION**

The scheme of the general statutes of Soviets of Workmen's, Soldiers', Peasant, and Cossack Deputies, as a representative organ, is no less necessary for the obscure places in our province than is the scheme of the departments and sub-departments of the Soviets.

The statutes of the Soviets may be divided into sections as follows: (1) The purpose of the organization of Soviets; (2) the basis of representation; (3) sections of the Soviet; (4) elections of the presidium and executive committee of the Soviet; (5) the functions of the presidium; (6) the executive committee and its functions; (7) general sessions; (8) committees.

### 1. The purpose of the organization of the Soviet.

The Soviet of Workmen's, Soldiers', Peasant, and Cossack Deputies is the sovereign state organ of revolutionary democracy, in addition to the organization of governmental authority in the provinces. The Soviet pursues the following objects:

(a) The organization of the large laboring masses of workmen, peasants, soldiers and Cossacks.

(b) The struggle against counter-revolutionary currents and the strengthening of the Soviet Republic and all liberties gained by the October Revolution.

### 2. The basis and order of representation in the Soviets.

(a) A Soviet of Workmen's, Soldiers', Peasant, and Cossack Deputies is constituted of one or two representatives each of all Workmen's, Soldiers', Peasant, and Cossack organizations (parties, trade unions, committees, etc.) in the cities, villages and settlements.

(b) The peasants elect two representatives from each township to the district Soviet (a township Soviet has one or two representatives from each small town, village or hamlet).

(c) The Cossacks elect two representatives (or three) from each village to the Regional Soviet of Workmen's, Soldiers', Peasant, and Cossack Deputies, and one representative each from a forepost (small settlement), hamlet, or small town to the village Soviet. (In Cossack territories the peasant representation in the Regional Soviet is proportional according to the villages.)

(d) The workmen and all proletarian laboring masses in cities where the urban proletariat does not exceed 5,000 or 6,000 persons have representation on the following basis: (1) Every enter-

prise employing 100 persons sends one representative. (2) Enterprises employing from 100 to 200 persons send two representatives; from 200 to 300 persons, three representatives, etc. (3) Enterprises employing less than fifty persons combine, if possible, with other small kindred enterprises and send a common representative to the Soviet. Those unable to combine may send their representatives independently.

(e) The soldiers of a local garrison (Cossacks, sailors) send to the Soviet their representatives on the following principle: each company, squadron, command, etc., elects two representatives to the Soviet; clerks, hospital attendants, horse reserves, and other small units send one representative each.

Addenda to Paragraph 2. (1) Every member newly elected to the Soviet must present a certificate from his constituents, which is examined by the credentials committee; (2) if a member of the Soviet deviates from the instructions of his constituents, then the constituents have the right to recall him and elect another in his place; (3) each section (the workmen's, the soldiers', etc.) of the Soviet has the right to include in its membership experienced and necessary workers by co-optation up to one-fifth of its entire membership. Those added by co-optation have the right of a consulting voice at general sessions of the Soviet in the committees and sections.

3. Sections of the Soviet: (a) a Soviet has four sections—peasants, workmen's, soldiers', and Cossacks; (b) each section elects from its membership a presidium consisting of a chairman, two vice-chairmen, and two secretaries, which directs all the business of the section; (c) the representation in the presidium is proportional to the membership of this or that party group.

4. Election of the presidium and executive committee: (a) the members of the Soviet, in each section, elect a presidium, which is chosen at a general meeting by a universal, direct, equal and secret vote, in the proportion and number indicated in Paragraph 3 (Sections of the Soviet); (b) the presidia of all sections of the Soviet constitute the general presidium of the Soviet, which elects from its membership a general chairman of all sections, two vice-chairmen and two secretaries; (c) besides the presidium, the general assembly of the Soviet elects from its membership an executive committee, proportionate to the membership of each party group (not section), so arranged that the membership of the executive committee shall not exceed one-fourth of the entire membership of the Soviet; (d) the members of the presidium form a part

of the membership of the executive committee on an equal basis with the other members.

5. The functions of the presidium: (a) the presidium is the directing organ of the entire Soviet and decides independently all matters which cannot suffer delay; (b) the presidium meets not less than four times a week; (c) the presidium renders an account of its activity to the executive committee and to the entire Soviet, who have the right to recall it and to replace it at any time or period; (d) the presidium must in its activity abide strictly by the instructions of the executive committee and the general assembly.

6. The executive committee and its functions.—(a) the executive committee of the Soviet is an organ formed out of the membership of the Soviet (paragraph 4). The president, or one of the vice-presidents of the Soviet, is the chairman of the executive committee (paragraph 4); (b) all current business of the Soviet is decided and carried on by the executive committee and only matters of particular importance are submitted to the decision of the general assembly of the Soviet; (c) questions considered by the executive committee are passed or rejected by a relative majority of vote; on questions of extraordinary importance a minority report received, entered upon the records, and reported to the general assembly; (d) questions are decided by an open vote, and only in matters of extraordinary importance, at the request of members of the executive committee, by a secret ballot; (e) a session of the executive committee is considered legal when not less than one-half of its membership is present; (f) members of the executive committee who for one reason or another cannot attend a session of the executive committee must notify the member of the executive committee on duty to that effect not later than half an hour before the opening of the session; (g) members of the executive committee who have been absent from three sessions without sufficient reason are deprived of the right to vote at two sessions, and the presidium notifies their constituents regarding the case; (h) the executive committee meets once a week irrespective of special sessions; (i) special sessions to consider questions of extraordinary importance, are called by the chairman or the vice-chairman or by three members of the executive committee; (j) members of the executive committee must be notified of a special session by a summons not later than two hours before the opening of the session; (k) a special session

is legal with any number of members present; (l) the sessions of the executive committee may be open or executive; (m) members of the executive committee are on duty in the reception room of the Soviet one from each section by turns.

7. General sessions.—(a) General sessions of the Soviets are called by the presidium whenever necessity arises, but not less than twice a month; (b) general sessions may be regarded as legal when half of the entire membership of the Soviet is present; special sessions when any number are present; (c) all questions submitted for the consideration of the general assembly must first be passed upon either by the executive committee or by the presidium; (d) a general session may be called also at the request of one-fifth of the membership of the Soviet; (e) admission to the sessions of the Soviet is by ticket only; (f) the sessions may be open or executive by decision of the presidium or the assembly itself.

8. Committees.—(a) Committees are elected in each case by the general assembly, by the executive committee, or by the presidium; (b) the membership of a committee is determined by the assembly; (c) the chairman of each committee makes a report about the work of the committee to the general assembly of the Soviet, the executive committee, and the presidium; (d) auditing committees, control committees, etc., for the examination of the Soviet affairs, are selected only by the general assembly of the Soviet; (e) each committee has the right of independent cooperation of learned persons with the privilege of a consulting voice.

#### IV. OULIANOV (LENINE).

##### THE RIGHTS AND DUTIES OF SOVIETS.

1. Soviets of Workmen's, Soldiers', and Peasants' Deputies, being local organs, are quite independent in regard to questions of a local character, but always act in accord with the decree of the central Soviet Government as well as of the larger bodies (district, provincial, and regional Soviets) of which they form a part.

2. Upon the Soviets, as organs of government, devolve the tasks of administration and service in all departments of local life — administrative, economic, financial, and educational.

3. Under administration, the Soviets carry out all decrees and decisions of the central Government, take measures for giving the people the widest information about those decisions, issue obligatory ordinances, make requisitions and confiscations, impose fines,

suppress counter-revolutionary organs of the press, active opposition to or the overthrow of the Soviet Government.

NOTE.— The Soviets render a report to the central Soviet Government regarding all measures undertaken by them and important local events.

4. The Soviets elect from their number an executive organ which is charged with the duty of carrying out their decisions and the performance of the current work of administration.

NOTE 1.— The Military Revolutionary Committees, as fighting organs which came into existence during the Revolution are abolished.

NOTE 2.— As a temporary measure, it is permitted to appoint Commissaries in those provinces and districts where the power of the Soviet is not sufficiently well-established or where the Soviet Government is not exclusively recognized.

5. The Soviets, being organs of government, are allowed credits from state funds for three months upon the presentation of detailed budgets.

#### INSTRUCTIONS REGARDING THE ORGANIZATION OF SOVIETS.

At the session of the collegium under the People's Commissary for Internal Affairs, on January 9, 1918, instructions regarding the organization of Soviets of Workmen's, Soldiers', and Peasants' Deputies were voted as follows:

In all Soviets, in place of the old, antiquated government institutions, the following departments or commissariats must first be organized:

1. Administration, in charge of the domestic and foreign relations of the Republic and technically unifying all the other departments.

2. Finance, whose duty is the compilation of the local budget, the collection of local and state taxes, the carrying out of measures for the nationalization of the banks, the administration of the People's Bank, control over the disbursements of national funds, etc.

3. Board of National Economy, which organizes the manufacture of the most necessary products of factory, mill, and home industries, determines the amount of raw materials and fuel, obtains and distributes them, organizes and supplies the rural economy, etc.

4. Land, whose duty it is to make an exact survey of the land, forests, waters, and other resources, and of their distribution for purposes of utilization.

5. Labor, which must organize and unite trade unions, factory and mill committees, peasant associations, etc., and also create insurance organizations of all kinds.

6. Ways of Communication, whose duty is the taking of measures for the nationalization of the railways and steamship enterprises, the direction of this most important branch of the national economy, the building of new roads of local importance, etc.

7. Post, telegraph and telephone, which must aid and develop these state enterprises.

8. Public education, which looks after the education and instruction of the population in the school and out of school, establishes new schools, kindergartens, universities, libraries, clubs, etc., carries out measures for the nationalization of printing shops, the publication of necessary periodicals and books and their circulation among the population, etc.

9. Legal, which must liquidate the old courts, organize people's and arbitration courts, take charge of places of detention, reform them, etc.

10. Medico-Sanitary, whose duty is sanitary and hygienic supervision, the organization of medical aid accessible to all, sanitary equipment of urban and rural settlements, etc.

11. Public realty, whose duty is the regulation of the housing problem, supervision over confiscated and public buildings, the construction of new ones, etc.

Note.—Soviets are advised to utilize the organizational apparatus of Zemstvo and municipal institutions, with appropriate changes, when forming the departments.

At the same session was passed the draft of the decree fixing the boundaries of provinces, districts, etc., as follows:

1. Questions of changes of boundaries of provinces, districts, or townships are to be settled entirely by the local Soviet of Workers', Soldiers', Peasants' and Laborers' Deputies.

2. When parts of one province or territory are included in another, the technical questions and misunderstandings which arise are dealt with by mixed commissions of the interested Provincial Soviets or their congress.

3. A similar procedure is followed when the boundaries of a district or township are rectified at the expense of another.

4. Territories, provinces, districts, and townships may also be divided into parts, forming new administrative economic units.

5. Detailed data regarding all such changes are to be reported to the Commissar for Internal Affairs.

President of the Council of People's Commissars:

V. OULIANOV (N. Lenine).

People's Commissars:

PETROVSKY,  
A. SHLIAPNIKOV,  
V. TRUTOVSKY,  
M. URITZKY.

Director of the Affairs of the Council of People's  
Commissars:

BONCH-BRUYEVICH.

Secretary:

N. GORBOUNOV.

## THE PEOPLE'S COURT

The Council of People's Commissaries resolves:

1. To abolish all existing general legal institutions, such as district courts, courts of appeal, and the governing Senate with all its departments, military and naval courts of all grades, as well as commercial courts, and to replace all these institutions with courts established on the basis of democratic elections.

Regarding further procedure and the continuation of unfinished cases, a special decree will be issued.

Beginning October 25 of this year, the passage of time limits is stopped until the issuance of a special decree.

2. To abolish the existing institution of justices of the peace, and to replace the justices of the peace heretofore elected by indirect vote by local courts consisting of a permanent local judge and two jurors, the latter of whom are summoned in pairs to each session from special lists of jurors. Local judges are henceforth to be elected on the basis of direct democratic vote, and, until the time of such elections, are to be chosen by regional and township Soviets, or, where there are none such, by district, city and provincial Soviets of Workmen's, Soldiers' and Peasants' Deputies.

These same Soviets make up the lists of alternating jurors and determine the time of their presence at the session.

The former justices of the peace are not deprived of the right to be elected as local judges, either temporarily by the Soviets or finally by a democratic election, if they express their consent thereto.

Local judges adjudicate all civil cases to an amount not exceeding 3,000 rubles, and criminal cases if the accused is liable to a penalty of not more than two years' deprivation of freedom. The verdicts and rulings of the local courts are final and no appeal can be taken from them. In cases in which the recovery of over 100 rubles in money or deprivation of freedom for more than seven days is adjudged, a request for review is allowed.

The court of cassation is the district session, and in the capitals, the metropolitan session, of local judges.

For the trial of criminal cases at the fronts, local judges are elected by regimental Soviets in the same order, and, where there are none, by the regimental committees.

Regarding procedure in other legal cases, a special decree will be issued.

3. To abolish all existing institutions of investigating magistrates and the prosecutor's office, as well as the grades of counsellors-at-law and private attorneys.

Until the reformation of the entire system of legal procedure, the preliminary investigation in criminal cases is made by the local judges singly, but their orders of personal detention and indictment must be confirmed by the decision of the entire local court.

As to the functions of prosecutors and counsel for defense, who are allowed even in the stage of preliminary investigation, and in civil cases the functions of solicitors, all citizens of moral integrity, of either sex, who enjoy civil rights, are allowed to perform them.

4. For the transfer and further direction of cases and suits, proceedings of the legal bodies as well as of officials engaged in preliminary investigation and the prosecutor's office, and also of the associations of counsellors-at-law, the respective local Soviets elect special commissaries, who take charge of the archives and the properties of those bodies.

All the lower and clerical personnel of the abolished institutions are ordered to continue in their positions and to perform, under the general direction of the commissaries, all duties necessary in order to dispose of unfinished cases, and also to give information on appointed days to interested persons about the state of their cases.

5. Local judges try cases in the name of the Russian Republic, and are guided in their rulings and verdicts by the laws of the governments which have been overthrown only insofar as those laws are not annulled by the revolution and do not contradict the revolutionary conscience and revolutionary conception of right.

Note. All those laws are considered annulled which contradict the decrees of the Central Executive Committee of the Soviets of Workmen's, Soldiers' and Peasants' Deputies and the Workmen's and Peasants' government; also the minimum programs of the Russian Social Democratic Labor Party and the Party of Social Revolutionaries.

6. In all civil as well as criminal cases the parties may resort to the arbitration court. The organization of the arbitration court will be determined by a special decree.

7. The right of pardon and restoration of rights of persons convicted in criminal cases belong henceforth to the legal authorities.

8. For the struggle against the counter revolutionary forces by means of measures for the defense of the revolution and its accomplishments, and also for the trial of proceedings against profiteering, speculation, sabotage and other misdeeds of merchants, manufacturers, officials and other persons, Workmen's and Peasants' revolutionary tribunals are established, consisting of a chairman and six jurors, serving in turn, elected by provincial or city Soviets of Workmen's, Soldiers' and Peasants' Deputies.

For the conduct of the preliminary investigation in such cases, special investigating commissions are formed under the above Soviets.

All existing investigating commissions are abolished, and their cases and proceedings are transferred to the new reformed investigating commissions.

President of the Council of People's Commissars:

V. OULIANOV (LENINE).

Commissars:

A. SHLIKHTER, L. TROTZKY, A. SHLIAP-  
NIKOV, I. DJUGASHVILI (STALIN),  
N. AVILOV (N. BLYEBOV), P. STUCKHA.

November 24, 1917.

## **INSTRUCTIONS TO THE REVOLUTIONARY TRIBUNAL**

The Revolutionary Tribunal is guided by the following instructions:

1. The Revolutionary Tribunal has jurisdiction in cases of persons (a) who organize uprisings against the authority of the Workmen's and Peasants' Government, actively oppose the latter or do not obey it, or call upon other persons to oppose or disobey it; (b) who utilize their positions in the state or public service to disturb or hamper the regular progress of work in the institution or enterprise in which they are or have been serving (sabotage, concealing or destroying documents or property, etc.); (c) who stop or reduce production of articles of general use without actual necessity for so doing; (d) who violate the decrees, orders, binding ordinances and other published acts of the organs of the Workmen's and Peasants' government, if such acts stipulates a trial by the Revolutionary Tribunal for their violation; (e) who, taking advantage of their social or administrative position, misuse the authority given them by the revolutionary people. Crimes against the people committed by means of the press are under the jurisdiction of a specially instituted Revolutionary Tribunal.

2. The Revolutionary Tribunal for offenses indicated in Article 1 imposes upon the guilty the following penalties: (1) fine, (2) deprivation of freedom, (3) exile from the capitals, from particular localities, or from the territory of the Russian Republic, (4) public censure, (5) declaring the offender a public enemy, (6) deprivation of all or some political rights, (7) sequestration or confiscation, partial or general, of property, (8) sentence of compulsory public work.

The Revolutionary Tribunal fixes the penalty, being guided by the circumstances of the case and the dictates of the revolutionary conscience.

3. (a) The Revolutionary Tribunal is elected by the Soviets of Workmen's, Soldiers' and Peasants' Deputies and consists of one permanent chairman, two permanent substitutes, one permanent secretary and two substitutes, and 40 jurors. All persons, except the jurors, are elected for three months and may be recalled by the Soviets before the expiration of the term.

(b) The jurors are selected for one month from a general list of jurors by the Executive Committees of the Soviets of Workmen's, Soldiers' and Peasants' Deputies by drawing lots, and lists

of jurors numbering 6, and one or two in addition, are made up for each session.

(c) The session of each successive jury of the Revolutionary Tribunal lasts not longer than one week.

(d) A stenographic record is kept of the entire proceedings of the Revolutionary Tribunal.

(e) The grounds for instituting proceedings are: reports of legal and administrative institutions and officials, public, trade and party organizations, and private persons.

(f) For the conduct of the preliminary investigation in such cases an investigating commission is created under the Revolutionary Tribunal, consisting of six members elected by the Soviets of Workmen's, Soldiers' and Peasants' Deputies.

(g) Upon receiving information or complaint, the investigating commission examines it and within 48 hours either orders the dismissal of the case, if it does not find that a crime has been committed, or transfer it to the proper jurisdiction, or brings it up for trial at the session of the Revolutionary Tribunal.

(h) The orders of the investigating commission about arrests, searches, abstracts of papers, and releases of detained persons are valid if issued jointly by three members. In cases which do not permit of delay such orders may be issued by any members of the investigating commission singly, on the condition that within 12 hours the measure shall be approved by the investigating commission.

(i) The order of the investigating commission is carried out by the Red Guard, the militia, the troops, and the executive organs of the Republic.

(j) Complaints against the decisions of the investigating commission are submitted to the Revolutionary Tribunal through its president and are considered at executive sessions of the Revolutionary Tribunal.

(k) The investigating commission has the right (1) to demand of all departments and officials, as well as of all local self-governing bodies, legal institutions and authorities, public notaries, social and trade organizations, commercial and industrial enterprises, and governmental, public, and private credit institutions, the delivery of necessary documents and information, and of unfinished cases; (2) to examine, through its members or special representatives, the transactions of all above enumerated institutions and officials in order to secure necessary information.

4. The sessions of the Revolutionary Tribunal are public.
5. The verdicts of the Revolutionary Tribunal are rendered by a majority of votes of the members of the Tribunal.
6. The legal investigation is made with the participation of the prosecution and defense.
7. (a) Citizens of either sex who enjoy political rights are admitted at the will of the parties as prosecutors and counsel for the defense, with the right to participate in the case.  
 (b) Under the Revolutionary Tribunals a collegium of persons is created who devote themselves to the service of the law, in the form of public prosecution as well as of public defense.  
 (c) The above mentioned collegium is formed by the free registration of all persons who desires to render aid to Revolutionary justice, and who present recommendations from the Soviets of Workmen's, Soldiers' and Peasants' Deputies.
8. The Revolutionary Tribunal may invite for each case a public prosecutor from the membership of the above named collegium.
9. If the accused does not for some reason use his right to invite counsel for defense, the Revolutionary Tribunal, at his request, appoints a member of the collegium for his defense.
10. Besides the above mentioned prosecutors and defense, one prosecutor and one counsel for defense, drawn from the public present at the session, may take part in the court's proceedings.
11. The verdicts of the Revolutionary Tribunal are final. In case of violation of the form of procedure established by these instructions, or the discovery of indications of obvious injustice in the verdict, the People's Commissar of Justice has the right to address to the Central Executive Committee of the Soviets of Workers', Soldiers' and Peasants' Deputies a request to order a second and last trial of the case.
12. The maintenance of the Revolutionary Tribunal is charged to the account of the State. The amount of compensation and the daily fees are fixed by the Soviets of Workers', Soldiers' and Peasants' Deputies. The jurors receive the difference between the daily fees and their daily earnings, if the latter are less than their daily fees. At the same time the jurors may not be deprived of their positions during the session.

People's Commission of Justice:

I. Z. STEINBERG.

December 19, 1917.

### THE REVOLUTIONARY TRIBUNAL OF THE PRESS.

1. Under the Revolutionary Tribunal is created a Revolutionary Tribunal of the Press. This Tribunal will have jurisdiction of crimes and offenses against the people committed by means of the press.

2. Crimes and offenses by means of the press are the publication and circulation of any false or perverted reports and information about events of public life, in so far as they constitute an attempt upon the rights and interests of the revolutionary people.

3. The revolutionary Tribunal of the Press consists of three members, elected for a period not longer than three months by the Soviet of Workmen's, Soldiers' and Peasants' Deputies. These members are charged with the conduct of the preliminary investigation as well as the trial of the case.

4. The following serve as grounds for instituting proceedings: reports of legal or administrative institutions, public organizations or private persons.

5. The prosecuting and defense are conducted on the principles laid down in the instructions to the general Revolutionary Tribunal.

6. The sessions of the Revolutionary Tribunal of the Press are public.

7. The decisions of the Revolutionary Tribunal of the Press are final and are not subject to appeal.

8. The Revolutionary Tribunal imposes the following penalties: (1) fine; (2) expression of public censure, which the convicted organ of the press brings to the general knowledge in a way indicated by the tribunal; (3) the publication in a prominent place or in a special edition of a denial of the false report; (4) temporary or permanent suppression of the publication or its exclusion from circulation; (5) confiscation to national ownership of the printing shop or property of the organ of the press if it belongs to the convicted parties.

9. The trial of an organ of the press by the Revolutionary Tribunal of the Press does not absolve the guilty persons from general criminal responsibility.

People's Commissar of Justice:

I. Z. STEINBERG.

*December 18, 1917.*

**TO THE SOVIET OF WORKMEN'S, SOLDIERS', AND PEASANTS'  
DEPUTIES. A REQUEST FOR THE IMMEDIATE ELECTION OF  
COMMISSARIES OF JUSTICE. THEIR DUTIES AND  
RIGHTS.**

By the decree of the Council of the People's Commissaries (November 24, 1917), the general legal institutions and justices courts, the procurator's office, the institutions of investigating magistrates, counsellors at law, and private attorneys, are abolished. Until the creation of permanent legal institutions, elect immediately Commissaries of Justice.

The duties of the elected commissaries are the safekeeping of archives and the property of the courts, the direction of unfinished cases, and the giving of information to interested persons. In view of the approach of the time for rendering semi-annual and annual financial reports for 1917, the elected commissaries are requested to take measures for the immediate preparation and delivery of the above mentioned reports in the established form and order. The publications of the official "Gazette of the Provisional Workmen's and Peasants' Government" are to serve as a guide to the local authorities.

Report the beginning of the activity of the new courts, their structure, the names of the commissaries of justice. Report the tentative budgets of the legal department for 1918.

The credits of the legal department which were not used locally in 1917 you may use by order of the Soviets.

Instructions for the Revolutionary Tribunal of the Press, and for general courts, criminal and civil, are being prepared.

People's Commissar of Justice:

**I. Z. STEINBERG.**

## **MARRIAGE, CHILDREN AND REGISTRATION OF CIVIL STATUS**

The Russian Republic henceforth recognizes civil marriage only.

Civil marriage is performed on the basis of the following rules:

1. Persons who wish to contract marriage declare (their intention) orally or by a written statement to the department of registration of marriages and birth at the city hall (regional, district, township, Zemstvo, institutions), according to the place of their residence.

Note: Church marriage is a private affair of those contracting it, while civil marriage is obligatory.

2. Declarations of intention to contract marriage are not accepted (a) from persons of the male sex younger than eighteen years, and of the female sex, sixteen years; in Transcaucasia the native inhabitants may enter into marriage upon attaining the age of sixteen for the groom and thirteen for the bride; (b) from relatives in the direct line, full and half-brothers and sisters; consanguinity is recognized also between a child born out of wedlock and his descendants on one side and relatives on the other; (c) from married persons; and (d) from insane.

3. Those wishing to contract marriage appear at the department of registration of marriage and sign a statement concerning the absence of the obstacles to contracting marriage enumerated in article 2 of this decree, and also a statement that they contract marriage voluntarily.

Those guilty of deliberately making false statements about the absence of obstacles enumerated in article 2 are criminally prosecuted for false statements and the marriage is declared invalid.

4. Upon the signing of the above-mentioned statement, the director of the department of registration of marriage records the act of marriage in the book of marriage registries and then declares the marriage to have become legally effective.

When contracting marriage the parties are allowed to decide freely whether they will henceforth be called by the surname of the husband or wife or by a combined surname.

As proof of the act of marriage, the contracting parties immediately receive a copy of the certificate of their marriage.

5. Complaints against the refusal to perform marriage or incorrect registration are lodged, without limitation of time, with

the local judge in the locality where the department of registration of marriage is; the ruling of the local judge on such complaint may be appealed in the usual way.

6. In case the former books of registration of marriages have been destroyed, or lost in some other way, or if for some other cause married persons cannot obtain a certificate of their marriage, those persons are given a right to submit a declaration to the respective department of registration of marriages, according to the place of residence of both parties or one of them, to the effect that they have been in the state of wedlock since such and such time. Such declaration is attested, in addition to the statement stipulated by article 3, by a further statement of the parties that the book of registration has really been lost or that for some other sufficient cause they cannot obtain a copy of the certificate.

#### REGISTRATION OF BIRTHS.

7. The registration of the birth of a child is made by the same department of registration of marriages and births in the place of residence of the mother, and a special entry of each birth is made in the book of registration of births.

8. The birth of a child must be reported to the department either by his parents or one of them, or by the persons in whose care, because of the death of his parents, the child remained, with an indication of the name and surname adopted for the child and the presentation of two witnesses to attest the fact of birth.

9. The books of registration of marriages as well as the books of registration of births are kept in two copies and one copy is sent at the end of the year to the proper court for preservation.

10. Children born out of wedlock are on an equality with those born in wedlock with regard to the rights and duties of parents toward children, and likewise of children toward parents.

The persons who make a declaration and give a signed statement to that effect are registered as the father and mother of the child.

Those guilty of deliberately making false statements regarding the above are criminally prosecuted for false testimony and the registration is declared invalid.

In case the father of a child born out of wedlock does not make such a declaration, the mother of the child or the guardian or the child itself has the right to prove fatherhood by legal means.

### REGISTRATION OF DEATHS

11. The record of the death of a person is made in the place where the death occurred by the department which has charge of the registration of marriages and births, by entry in a special book for registration of deaths.

12. The death of a person must be reported to the department by the legal or administrative authorities or persons in whose care the deceased was.

13. Institutions in charge of cemeteries are henceforth forbidden to place obstacles in the way of burial in cemetery grounds in accordance with the ritual of civil funerals.

14. All religious and administrative institutions which hitherto have had charge of the registration of marriages, births and deaths according to the customs of any religious sects are ordered to transfer immediately all the registration books to the respective municipal, district, rural, or Zemstvo administrations:

President of the Council of People's Commissars:

V. OULIANOV (LENIN)

President of the Central Executive Committee of the Soviets of Workmen's, Soldiers', and Peasants' Deputies.

YA. SVERDLOV.

Director of the Affairs of the Council of People's Commissars

BONCH-BRUYEVICH.

Secretary:

N. GORBOUNOV.

## DIVORCE

1. Marriage is annulled by the petition of both parties or even one of them.

2. The above petition is submitted, according to the rules of local jurisdiction, to the local court.

Note.— A declaration of annulment of marriage by mutual consent may be filed directly with the department of registration of marriages in which a record of that marriage is kept, which department makes an entry of the annulment of the marriage in the record and issues a certificate.

3. On the day appointed for the examination of the petition for the annulment of marriage, the local judge summons both parties or their solicitors.

4. If the residence of the party who is to be summoned is unknown, the petitioner is allowed to file the petition for annulment of marriage in the place of residence of the absent party last known to the petitioner, or in the place of residence of the petitioner, stating to the court, however, the last known place of residence of the defendant.

5. If the place of residence of the party who is to be summoned is unknown, then the day for the trial of the case is set not earlier than the expiration of two months from the date of the publication of a notice of summons in the local government gazette; and the summons is sent to the address of the last known place of residence of the defendant given by the petitioner.

6. Having convinced himself that the petition for the annulment of the marriage really comes from both parties or from one of them, the judge personally and singly renders the decision of the annulment of the marriage and issues a certificate thereof to the parties. At the same time, the judge transmits a copy of his decision to the department of registration of marriages where the annulled marriage was performed and where the book containing a record of marriage is kept.

7. When annulling a marriage by mutual consent, the parties are obliged to state in their petition what surnames the divorced parties and their children are to bear in the future. But when dissolving the marriage by the petition of one of the parties, and in the absence of an understanding about this matter between the

parties, the divorced parties preserve their own surnames, and the surname of the children is determined by the judge, and in case of disagreement of the parties, by the local court.

8. In case the parties are agreed on the matter, the judge, simultaneously with the decision of annulment of the marriage, determines with which of the parents the minor children begotten of the marriage shall live, and which of the parents must bear the expense of maintenance and education of the children, and to what extent and also whether and to what extent the husband is obliged to furnish food and maintenance to his divorced wife.

9. But if no understanding shall be reached, then the participation of the husband in furnishing his divorced wife with food and maintenance when she has no means of her own or has insufficient means and is unable to work, as well as the question with whom the children are to live, is decided by a regular civil suit in the local court, irrespective of the amount of the suit. The judge, having rendered the decision annulling the marriage, determines temporarily, until the settlement of the dispute, the fate of the children, and also rules on the question of the temporary maintenance of the children and the wife, if she is in need of it.

10. Suits for adjudging marriages illegal or invalid belong henceforth to the jurisdiction of the local court.

11. The operation of this law extends to all citizens of the Russian Republic irrespective of their adherence to this or that religious sect.

12. All suits for annulment of marriage which are now in ecclesiastical consistories of the Greek-Catholic and other denominations, in the governing synod and all other institutions of Christian and non-Christian religions, and by officials in charge of ecclesiastical affairs of all denominations, and in which no decisions have been rendered or the decisions already rendered have not become legally effective, are declared by reason of this law null and void, and are subject to immediate transfer to the local district courts for safe-keeping, with all archives in the possession of the above-mentioned institutions and persons having jurisdiction in divorce suits. The parties are given the right to file a new petition for the annulment of the marriage according to this decree, without awaiting the dismissal of the first suit, and a new

summons of absent parties (Paragraphs 4 and 5) is not obligatory if such a summons was published in the former order.

President of the Central Executive Committee of the  
Soviets of Workers', Soldiers', and Peasants' Deputies:

YA. SVERDLOV.

President of the Council of People's Commissars:

V. OULIANOV (Lenine).

Director of the Affairs of the Council of People's  
Commissars:

BONCH-BRUYEVICH.

Secretary:

N. GORBOUNOV.

December 18, 1917.

## EIGHT-HOUR LAW

1. This law applies to all establishments and industries irrespective of their size or to whom they belong, and to all persons employed in hired labor.

2. The working time, or the number of working hours in a day, is considered to be the time during which, according to the contract of employment (Articles 48, 60, 96, 98 and 103 of the Industrial Labor Law) the workman is obliged to be in the industrial establishment at the disposal of the superintendent for the performance of the work.

Note 1.— In underground work the time taken by the descent unto the mine and ascent to the surface is considered working time.

Note 2.— The working time of workmen sent to perform any kind of labor beyond the boundaries of an establishment is determined by special arrangement with the workmen.

3. The working time fixed by the rules governing the internal organization of the establishment (Clause 1, Article 103 of the Industrial Labor Law) must not exceed eight working hours in a day and forty-eight hours in a week, including therein also the time employed in cleaning the engine and in putting the premises in order.

On Christmas Eve (December 24) and on the Pentecost holiday (Whitsunday) work is stopped at eleven o'clock in the morning.

4. Not later than six hours after the beginning of work a free interval for rest and eating must be designated. The interval must not be shorter than one hour.

Free recesses during work are those which are fixed by the rules of the internal organization; during such recesses the workman is free to dispose of his time and to leave the boundaries of the establishment.

During the free recesses in working time the engines, lathes, and benches must be stopped; exceptions from this rule are allowed only for such overtime work as is performed in accordance with Articles 18–22 of this law, as well as for engines and motors which are working for ventilation, water-supply, lighting, etc.; moreover, work may not be stopped in those manufacturies in which stoppage is impossible for technical reasons (such as unfinished casting or unfinished polishing).

Note 1.— Establishments whose work is recognized by law or by the main chamber of labor as continuous and which is performed in three shifts a day, do not observe the rules regarding recesses, but are obliged to give the workman the right to take food during his work.

Note 2.— If a workman, owing to the conditions of his work, cannot absent himself from the place of work to take food, then a room or place is to be provided for him for that purpose. The setting aside of a special room for the above purpose is obligatory for those workmen who, when working, come into contact with materials recognized by the rulings of the main board of factory and mining industries (or the organ taking its place) as injurious to the health of the workman (lead, mercury, etc.).

5. The general duration of all recesses during twenty-four hours shall not exceed two hours.

6. Nighttime is considered the time between nine o'clock in the evening and six o'clock in the morning.

7. In the nighttime it is forbidden to utilize the labor of workers of the female sex, or of workers of the male sex under sixteen years of age.

8. For enterprises working two shifts of workmen, the nighttime is considered from nine o'clock in the evening until five o'clock in the morning, while the free recesses (Article 4) may be reduced to half an hour for each shift.

9. In those cases where, by requests of the workers (for instance, in brickworks) or on account of climatic conditions, it is desired to make the midday recess more lengthy, the main board of factory and mining industries (or the organ taking its place) may permit a corresponding departure from the rules in Articles 4, 5, 6 and 8 of this statute.

10. When hiring minors under eighteen years of age the following rules in addition to the above are applied: (a) minors under fourteen years are not permitted to work for hire; (b) the working time of minors under eighteen may not be longer than six hours a day.

Note.— Beginning January 1, 1919, all persons who have not reached fifteen years are not permitted to work for hire, and beginning January 1, 1920, those who have not reached twenty years of age.

11. In the table of holidays on which work is stopped (Clause 2, Article 103 of Industrial Labor Law) are included all Sundays

and the following holidays: January 1, January 6, February 27, March 25, May 1, August 15, September 14, December 25 and 26, Friday and Saturday of Passion Week, Monday and Tuesday of Easter Week, Ascension Day and the second day of Pentecost.

Note 1.—For non-Christians it is permitted to include other holidays instead of Sundays, according to the precepts of their religion; of the remaining holidays mentioned in this article only those are obligatory for them which are not indicated in the following note.

Note 2.—By the consent of the majority of workmen of an establishment or industry, or a part of them, the holidays of January 1 and 6, August 15, September 14, December 26, Saturday of Passion Week, and Easter Monday may be replaced by other free days.

12. In one-shift day work the least duration of the Sunday and holiday rest given each workman is fixed at 42 hours. In two-shift work with two complements of workmen, and in three-shift work with three complements of workmen, the least duration of a Sunday and holiday rest for each workman is fixed by agreement with the workmen's organizations.

13. By mutual agreement of the superintendent of the establishment or industry with the people employed by it, the latter may, as a departure from the rules about holidays indicated in Article 11, be engaged in work on a holiday instead of on a week-day. Such an understanding must immediately be reported to the proper officials who look after the execution of this law.

14. The main board of factory and mining industries (or the organ taking its place) is given the right to issue regulations permitting, to the extent of real necessity, departures from the rules set forth in Articles 3, 4, 5 and 8 for those establishments which, by the nature of their production for the satisfaction of public needs, must perform the work in the night time or must work irregularly at different seasons of the year (for instance, work for lighting and water supply of cities).

15. In manufactories and works in which the workmen are subjected to the operation of particularly unfavorable conditions, or to danger of occupational poisoning (such as work in an extraordinarily high temperature, in mercury and bleaching factories, etc.), the working time indicated in Articles 3-5 and 8 is subject to further reduction. A list of such works and manufactories, with the indication of the duration of the working time permissible in each

line of work, as well as other conditions of the work, is to be compiled by the main board of factory and mining industries (or the organ which takes its place).

16. Women and youths of either sex under 18 years of age are not permitted to work underground.

17. A departure from the rules stated in Articles 3-5 and 8-12 is permitted by agreement with the workmen and with the approval of the workmen's organizations with regard to workmen engaged in auxiliary work, such as repairs, care of boilers, motors, lathes, factory heating, water supply, lighting of the factory buildings, guard and fire duty, and in general such work without whose preliminary performance the industrial enterprise cannot be put in operation at the fixed time and which must of necessity be performed after the stoppage of the work.

18. The work which is performed by the workman at a time when, according to the tables of working time, he is not supposed to work is considered overtime. Overtime work is permitted only when conditions stated in Articles 19-23 of this statute are observed and when it is paid for at a double rate.

19. Persons of the female sex, and persons of the male sex who have not reached eighteen years of age, are not permitted to work overtime.

20. Workmen of the male sex older than eighteen years may work overtime with the permission of the workmen's organization only in the following cases: (a) When overtime work is necessary in order to finish in time the work begun, which because of unforeseen and accidental delay could not by the mechanical conditions of production be finished in the normal working time (according to the rules of the establishment), and when the stoppage of that work at the set time might cause danger or injury to the materials and the mechanism (work with chemical processes, casting, etc., may be considered of that nature); (b) for the performance of work necessary to avert danger to life or property, or for the removal of accidental causes which have disturbed the technical conditions necessary for the regular water supply, lighting, sanitation, and urgent public communication; (c) when working on necessary repairs in cases of sudden injury to boilers, motors, lathes, and, in general, unforeseen derangement of mechanisms, apparatus, or structures (buildings, dams, etc.) which cause the stoppage of the work of the entire establishment or any of its branches; (d) when performing temporary work in any

branch of the establishment in cases where, because of fire, breakdown, or unforeseen circumstances, the work of one or other branch of the establishment was stopped for some time or entirely and when this work is necessary for the full operation of the other branches of the establishment.

21. In such a case as is mentioned in the last paragraph of Article 20 it is necessary to obtain from the commissar of labor or labor inspector a special permit for overtime work; and in the application for such permit the daily duration of such work and the time during which it will be performed must be indicated. About overtime work specified in Clauses (b) and (c) of Article 20, ordinary notice is given.

22. All overtime work is recorded in the workmen's account books by special entry, with an indication of the pay due for it; in addition, a special overtime account has to be kept in the office books for each workman separately.

23. Overtime work under conditions stated in Articles 19-22 is allowed on not more than fifty days in a year for each separate establishment, and each day of overtime work in a branch is counted even if on that day only one workman did overtime work in that branch.

24. The duration of overtime work of each individual workman must in no case exceed four hours for two days in succession.

25. For some time, until the end of military operations, in the establishments working for defense, the rules limiting the duration of overtime work (Articles 19-24) and those about recesses during the work (Article 4-6) may be suspended by agreement with the workmen and the workmen's organizations.

26. This law is to be put into operation by telegraph and becomes effective immediately. For its violation offenders are liable to imprisonment for a period not longer than one year.

In the name of the Russian Republic.

For the Commissar of Labor:

N. LARIN.

October 29, 1917.

## INSURANCE LAW

1. The Insurance Council is instituted under the People's Commissary of Labor for the supervision of all matters relating to the insurance of workmen.

2. The Insurance Council consists of twenty-four members from the insured, four from the All-Russian Central Council of Trade Unions, two each from the All-Russian Central Council of Factory and Mill Committees and agricultural laborers' Committees, three from the People's Commissariat of Labor, one from the People's Commissariat of Justice, eight from employers, and one each from Zemstvo and Municipal self-governments, from physicians, and from lawyers.

3. The insurance Council elects from its number a chairman, two vice-chairmen and two secretaries.

4. The members of the Council from the People's Commissariat are appointed by order of the respective People's Commissaries.

5. The period of incumbency of the elected members of the Council is fixed at one year.

6. The members of the Council from Zemstvo and municipal self-governments, and from physicians and lawyers, are elected, respectively, by the main head committees of the all-Russian Zemstvo Union and Union of Municipalities by the Directorate of the Society of Russian Physicians in memory of N. I. Pirogov, and by the All-Russian Association of Lawyers.

7. The members of the Council from Insurance funds are elected in accordance with the rules established by the All-Russian Conventions of Members of the Funds assembled in accordance with article 27 of this law.

8. The members of the Council from the All-Russian Trades Council and All-Russian Central Council of factory and mill committees and agricultural laborers' committees are elected by the respective All-Russian conventions.

9. The members of the Council from employers are elected by the Central employers' associations by their mutual consent.

10. Persons of either sex may be elected as members of the Council from insurance funds, trade unions, factory, mill and agricultural laborers' committees and also from employers, even if they are not members of insurance funds, trade union, mill, factory, or agricultural laborers' committees, or employers' associations.

11. As substitutes for the members of the Council there are elected twelve from the insured, two from the All-Russian Central Council of Trade Unions, one each from the All-Russian Central Council of the factory, mill and agricultural laborers' committees, four from employers and one each from municipal and Zemstvo self-governments, physicians and lawyers, according to articles 6, 7, 8 and 9.

The substitution of members is made in the order of the majority of votes received in the election, and, in case of an equal number of votes, by drawing lots. The substitutes may participate in the sessions of the Council, even if the membership is complete, but in the latter case only with the right of a consulting voice.

12. The members of the Council by election and their substitutes, upon the expiration of the time of their incumbency, continue to perform their duties until new elections. Retiring members may be re-elected.

13. Members of the Council receive, for their participation in the labors of the Council, remuneration from the funds of the State Treasurer, the amount of which is fixed by the statutes of the Council. The amount of remuneration of the substitutes is fixed by the instruction of the Council.

14. The absence of members of the council from the insurance funds, trade unions, factory, mill and agricultural laborers' committees, from work or office at the time when they are engaged in the performance of the duties devolving upon them as members of the Council, does not give the employer the right to impose upon them fines for absence from work (Industrial Labor Law, edition of 1913, articles 104 and 106) or to demand the cancellation of the employment contract.

15. To the sessions of the Council may be invited persons from whom it may be expected that useful information will be obtained about the matter under discussion. When considering matters which concern the jurisdiction of the People's Commissariats which have no representatives on the Council, such persons are invited by arrangement with the respective People's Commissar. Invited persons enjoy the right of a consulting voice.

16. The direction of the business of the Insurance Council devolves upon the Bureau of the Council, which is elected by the general Assembly of the Council. The sessions of the Council are called by the bureau whenever necessary. Matters are submitted for the consideration of the Council in the order established by

the bureau of the Council. Members of the Council have the right to submit through the bureau, for consideration by the Council, questions which relate to matters in its jurisdiction.

17. The Insurance Council has jurisdiction in the following cases:

(a) the issuance, within the limits of the laws in force, of regulations and instructions concerning all kinds of workmen's insurance, as well as the issuance of rules establishing the order of operation of local insurance institutions in charge of these matters;

(b) the examination of objections which may arise from the application by the local insurance institutions of the laws governing questions of workmen's insurance;

(c) the annulment of the decisions of insurance boards against which, by law, appeals may be taken to the Council;

(d) the consideration of complaints against the decisions of the insurance boards submitted to the Insurance Council;

(e) the fixing of the amount of remuneration of members of the insurance boards for participation in the labors of these boards;

(f) the issuance of rules governing the accounting of insurance funds and other insurance institutions;

(g) the establishment of a general rule for the application of the insurance laws to persons who work in cooperative societies, artisans, those engaged in home industries, and poor peasants who work independently without employing hired labor;

(h) consideration of legislative proposals regarding matters of workmen's insurance, instructions to sections, and the general assembly of the Council;

(i) proposals regarding the inspection of local institutions in charge of insurance, and also the inspection of insurance funds and other insurance institutions;

(j) the consideration of questions having relation to matters within the jurisdiction of the Council and submitted by the People's Commissariat of Labor, as well as by members of the Council through the bureau of the Council.

The Insurance Council has jurisdiction in the following cases in particular:

I. Regarding workmen's insurance against sickness:

(a) the establishment of the form and order of furnishing proper information by employers, as well as the keeping of books and records containing this information, and the order of their submission for examination;

(b) the fixing of time limits for the establishment of hospital funds;

(c) the issuance of regulations governing the equipment and maintenance of medical institutions for members of hospital funds, as well as the extent of medical aid in all its forms;

(d) the establishment of the order and general basis of rendering medical aid to members of hospital funds;

(e) the establishment of the forms of medical reports of institutions which treat members of hospitals funds;

(f) the establishment of the form of annual reports about the employment of hospital funds.

## II. Regarding workmen's insurance against accidents:

(a) The establishment of the form of certificate attesting the circumstances under which the accident occurred;

(b) the establishment of time limits for the issuance to pensioners of certificates necessary for receiving a pension;

(c) the establishment of the form of pension books and rules governing their issuance;

(d) the establishment of regulations and the time limit for the delivery of information about the nature of an enterprise and the number of persons employed in it;

(e) the approval of tables for reckoning the capitalized cost of pensions;

(f) the consideration of the basis for calculating the proportions of the insurance contributions of employers;

(g) the establishment and determination of the classes of dangerous occupations;

(h) the selection of the forms of statistical reports about accidents.

## III. Regarding workmen's insurance against unemployment:

(a) The fixing of the amount of the contribution of employers to the unemployment fund in its ratio to wages;

(b) the establishment of the rules of deposit, keeping, and disbursement of the All-Russian unemployment fund;

(c) the establishment of the form of the order on which employers shall furnish necessary information;

(d) the examination of complaints against the decisions of insurance boards.

19. The Insurance Council transacts its business in general sessions and in separate sections of the Council.

20. Separate sections are established by the Council for the consideration of questions and business (a) of insurance against sickness; (b) accident insurance; (c) unemployment insurance; (d) old age insurance, etc.

21. The personnel of the sections, the order of their election, and the apportionment of business among the sections is determined by the Council in special instructions for each section.

22. The decisions of the Council are final. The People's Commissar of Labor is given the right of vetoing the decisions of the Council.

23. The general assembly of the Council may order the formation of committees to carry out special missions of the Council or sections, and persons who are not members of the Council may be included in those committees.

24. When the inspection is being made, as stipulated in Clause (i) of Article 17 of this law, institutions and persons are obliged to produce all books, accounts, and records which have reference to the object of the inspection.

25. The rules of procedure in the general assembly, sections and committees, as well as in the bureau of the Council, are determined by instructions formulated by the Council.

26. The decisions of the Council are published in a special collection which is sent free to local insurance institutions and insurance organizations, as well as governmental and public institutions and organizations, at the discretion of the bureau of the Council. Decisions having a binding character are published for general information in the central organ of the Government.

27. For the consideration of the most important measures of a general character which relate to workmen's insurance, All-Russian and regional conventions of insured are called annually.

Note.—The order of elections to the conventions is determined by local workmen's insurance organizations.

28. The business of the Insurance Council is to be transacted by the department of social insurance of the People's Commissariat of Labor, under the direction of the Bureau of the Council.

29. Until the election of the members of the Insurance Council from members of insurance funds in the way provided by Article 7 of this law, the above members of the Council are elected at the Petrograd Workmen's Insurance Conference on the basis of one delegate to 1,000 workmen.

The members of the Insurance Council from employers, until their election in the way indicated in Article 9 of this law, are elected by the Petrograd Association of Manufacturers.

Complaints against election errors are lodged with the People's Commissariat of Labor.

People's Commissar of Labor:

A. SHLIAPNOKOV,

Director of the Department of Social Insurance:

A. VINOKUROV.

Secretary of the Department:

A. PODERIN.

November 29, 1917.

## THE ADMINISTRATION OF NATIONAL UNDERTAKINGS

### PART I.

1. The Central Administration of Nationalized Undertakings, of whatever branch of industry, assigns for each large nationalized undertaking, technical and administrative directors, in whose hands are placed the actual administration and direction of the entire activity of the undertaking. They are responsible to the Central Administration and the Commissar appointed by it.

2. The technical director appoints technical employees and gives all orders regarding the technical administration of the undertaking. The factory committee may, however, complain regarding these appointments and order to the Commissar of the Central Administration, and then to the Central Administration itself; but only the Commissar and Central Administration may stop the appointments and order of the technical director.

3. In connection with the Administrative Director there is an Economic Administrative Council, consisting of delegates from laborers, employees, and engineers of the undertaking. The Council examines the estimates of the undertaking, the plan of its works, the rules of internal distribution, complaints, the material and moral conditions of the work and life of the workmen and employees, and likewise all questions regarding the progress of the undertaking.

4. On questions of a technical character relating to the enterprise the Council has only a consultative voice, but on other questions a decisive voice, on condition, however, that the Administrative Director appointed by the Central Administration has the right to appeal from the orders of the Council to the Commissioner of the Central Administration.

5. The duty of acting upon decisions of the Economic Administrative Council belongs to the Administrative Director.

6. The Council of the enterprise has the right to make representation to the Central Administration regarding a change of the directors of the enterprise, and to present its own candidates.

7. Depending on the size and importance of the enterprise, the Central Administration may appoint several technical and administrative directors.

8. The composition of the Economic Administrative Council of the enterprise consists of (a) a representative of the workmen of the undertaking; (b) a representative of the other employees;

(c) a representative of the highest technical and commercial personnel; (d) the directors of the undertaking, appointed by the Central Administration; (e) representatives of the local or regional council of professional unions, of the people's economic council, of the council of workmen's deputies, and of the professional council of that branch of industry to which the given enterprise belongs; (f) a representative of the workmen's co-operative council; and (g) a representative of the Soviet of Peasants' Deputies of the corresponding region.

9. In the composition of the Economic Administrative Council of the enterprise, representatives of workmen and other employees, as mentioned under (a) and (b) of Article 8, may furnish only half of the numbers of members.

10. The workmen's control of nationalized undertakings is attained by leaving all declarations and orders of the factory committee, or of the controlling commission, to the judgment and decision of the Economic Administrative Council of the enterprise.

11. The workmen, employees and highest technical and commercial personnel of nationalized undertakings are in duty bound before the Russian Soviet Republic to observe strict industrial discipline, and to carry out conscientiously and accurately the work assigned to them. To the Economic Administrative Council are given judicial powers, including that of dismissal without notice for longer or shorter periods, together with the declaration of a boycott for non-proletariat recognition of their rights and duties.

12. In the case of those industrial branches for which central administrations have not yet been formed, all their rights are vested in provincial councils of national economy, and in corresponding industrial sections of the Supreme Council of National Economy.

13. The estimates and plans of work of a nationalized undertaking must be presented by its Economic Administrative Council to the central administration of a given industrial branch at least as often as once in three months, through the provincial organizations, where such have been established.

14. The management of nationalized undertakings, where such management has heretofore been organized on other principles because of the absence of a general plan and general orders for the whole of Russia, must now be organized, in accordance with the present regulation, within the next three months (i. e., by the end of May, new style).

15. For the consideration of the declarations of the Economic Administrative Council concerning the activity of the directors of the undertaking, at the central administration of a given branch of industry, a special section is established, composed one-third of representatives of general governmental, political and economic institutions of the proletariat, one-third of representatives of workmen and employees of the given industrial branch, and one-third of representatives of the directing, technical and commercial personnel of its professional organizations.

16. The present order must be posted on the premises of each nationalized undertaking.

Note.—Small nationalized enterprises are managed on similar principles, with the proviso that the duties of technical and administrative directors may be combined in one person, and the numerical strength of the Economic Administrative Council may be cut down by the omission of representatives of one or another institution or organization.

## PART II.

17. A Central Administration [Principal Committee] for each nationalized branch of industry is to be established in connection with the Supreme Council of National Economy, to be composed of a given industrial branch; one-third of representatives of the general proletariat, general governmental, political and economic organizations and institutions (Supreme Council of National Economy, the People's Commissars, All-Russian Council of Professional Unions, All-Russian Council of Workmen's Co-operative Unions, Central Executive Committee of the Councils of Workmen's Delegates) and one-third of representatives of scientific bodies, of the supreme technical and commercial personnel, and of democratic organizations of all Russia (Council of the Congresses of All-Russia, co-operative unions of consumers, councils of peasants' deputies).

18. The Central Administration, selected its bureau, for which all orders of the Central Administration are obligatory, which conducts the current work and carries into effect the general plans for the undertaking.

19. The Central Administration organizes provincial and local administration of a given industrial branch, on principles similar to those on which its own organization is based.

20. The rights and duties of each Central Administration are indicated in the order concerning the establishment of each of

them, but in each case each Central Administration unites in its own hands (a) the management of the enterprises of a given industrial branch, (b) their financing, (c) their technical unification or reconstruction, (d) standardization of the working conditions of the given industrial branch.

21. All orders of the Supreme Council of National Economy are obligatory for each Central Administration; the Central Administration comes into contact with the Supreme Council, as represented by the bureau of productive organization of the Supreme Council of National Economy, through the corresponding productive sections.

22. When the Central Administration for any industrial branch which has not yet been nationalized is organized, it has the right to sequester the enterprises of the given branch, and equally, without sequestration, to prevent its managers completely or in part from engaging in its administration, appoint commissioners, give orders, which are obligatory, to the owners of non-nationalized enterprises, and incur expenses on account of these enterprises for measures which the Central Administration may consider necessary; and likewise to combine into a technical whole separate enterprises or parts of the same, to transfer from some enterprises to others fuel and customers' orders and establish prices upon articles of production and commerce.

23. The Central Administration controls imports and exports of corresponding goods for a period which it determines, for which purpose it forms a part of the general government organizations of external commerce.

24. The Central Administration has the right to concentrate in its hands and in institutions established by it, both the entire preparation of articles necessary for a given branch of industry (raw material, machinery, etc.), and the disposal to enterprises subject to it of all products and acceptances of orders for them.

### PART III.

25. Upon the introduction of nationalization into any industrial branch, or into any individual enterprise, the corresponding Central Administration (or the temporary Central Administration appointed with its rights) takes under its management the nationalized enterprises, each separately, and preserves the large ones as separate administrative units, annexing to them the smaller ones.

26. Until the nationalized enterprises have been taken over by the Central Administration (or principal commissary), all former managers or directorates must continue their work in its entirety in the usual manner, and under the supervision of the corresponding commissioner (if one has been appointed), taking all measures necessary for the preservation of the national property and for the continuous course of operations.

27. The Central Administration and its organs establish new managements and technical administrative directorates of enterprises.

28. Technical administrative directorates of nationalized enterprises are organized according to Part I of this decree.

29. The management of a large undertaking, treated as a separate administrative unit, is organized with a view to securing, in as large a measure as possible, the utilization of the technical and commercial experience accumulated by the undertaking; for which purpose there are included in the composition of the new management not only representatives of the laborers and employees of the enterprise (to the number of one-third of the general numerical strength of the management) and of the Central Administration itself (to the number of one-third or less as the Central Administration shall see fit), but also, as far as possible, members of former managements, excepting persons specially removed by the Central Administration, and, upon their refusal, representatives of any special competent organizations, even if they are not proletariat (to a number exceeding one-third of the general membership of the management).

30. When nationalization is introduced, whether of the entire branch of the industry or of separate enterprises, the Central Administrations are permitted, in order to facilitate the change, to pay to the highest technical and commercial personnel their present salaries, and even, in case of refusal on their part to work and the impossibility of filling their places with other persons, to introduce for their benefit obligatory work and to bring suit against them.

31. The former management of each nationalized undertaking must prepare a report for the last year of operations and an inventory of the undertaking, in accordance with which inventory the new management verifies the properties taken over. The actual taking over of the enterprise is done by the new management immediately upon its confirmation by the principal com-

mitted, without waiting for the presentation of the inventory and report.

32. Upon receipt in their locality of notice of the nationalization of an enterprise, and until the organization of the management and its administration by the Central Administration (or the principal commissary, or institution having the rights of the principal commissary) the workmen and employees of the given enterprise, and if possible, also the Council of Workmen's Deputies, the Council of National Economy, and Council of Professional Unions, select temporary commissars, under whose supervision and observation (and, if necessary, under whose management) the activity of the undertaking continues. The workmen and employees of the given enterprise, and the regional councils of national economy, of professional unions, and of workmen's delegates have the right also to organize temporary managements and directorates of nationalized enterprises until the same are completely established by the Central Administration.

33. If the initiative for the nationalization of a given enterprise comes, not from the general governmental and proletarian organs, authorized for that purpose, but from the workmen of a given enterprise or from some local or regional organization, then they propose to the Supreme Council of National Economy, as represented by its bureau of productive organizations, that the necessary steps be undertaken through the proper production sections, according to the decree of February 28 regarding the method of confiscating enterprises.

34. In exceptional cases local labor organizations are given the right to take temporarily under their management the given enterprise, if circumstances do not permit of awaiting the decision of the question in the regular order, but on condition that such action be immediately brought to the notice of the nearest provincial council of national economy, which then puts a temporary sequestration upon the enterprise pending the complete solution of the question of nationalization by the Supreme Council of National Economy; or, if it shall consider the reasons insufficient or nationalization clearly inexpedient, or a prolonged sequestration unnecessary, it directs a temporary sequestration or even directly re-establishes the former management of the enterprise under its supervision, or introduces into the composition of the management representatives of labor organizations.

35. The present order must be furnished by the professional unions of all Russia to all their local divisions, and by the councils

of factory committees to all factory committees, and must be published in full in the Izvestia of all provincial councils of workmen's and peasants' deputies.

For the Bureau of Organizations of Production of the  
Supreme Council of National Economy:

V. LARIN.

Superintendent:  
SHEVERDIN.

March 7, 1918.

## PRICE COMMITTEES

1. Although the shops in the large cities have not received any goods during the last few months, and all the articles in them were purchased earlier by the proprietors at comparatively low prices, nevertheless at the present time the proprietors demand for these goods prices much higher than those which prevailed four months ago. Accordingly, an examination of all books of all shops in all cities and settlements with a population of not less than 10,100 is ordered.

2. In view of the obvious necessity of control over the fixing of prices, committees on prices are created for every class of commercial establishment (dry goods, haberdashery, hardware, grocers, etc.).

3. The determination of this branch of commerce, for each of which a special committee on prices is created, is left to a commission of representatives of the local Soviets of Workmen's Deputies, the City Council and the Union of Commercial Industrial Employees in equal numbers (three each from those organizations).

4. The same commission determines which commercial establishments are within the jurisdiction of each committee on prices.

5. Committees on prices, in accordance with this ordinance, are to be created without fail in every city and settlement with a population of not less than 10,000.

6. The members of the committee on prices comprise two representatives of the respective section of commercial-industrial employees, two representatives of consumers' leagues, two representatives of proprietors of the respective, commercial establishments, one statistician, and one book-keeper, chosen by the local Soviet or Workmen's Deputies.

7. The committee on prices controls a given branch of commerce in its entirety and directs it on the following principles:

(a) The verification of the disbursements of the commercial establishment for the acquisition, keeping and organization of the sale of goods, and additional expenses connected with the conduct of the business;

(b) The determination, on this basis, of the normal average price of each product for a given city;

(c) The fixing of an average amount of profit;

(d) The apportionment of the profit among all the shops, with the right of taking as a whole all disbursements and all incomes all shops of a given branch of commerce in a given city, but so calculated that all proprietors who are personally engaged in their business, and their families shall be secured at least a suitable maintenance.

8. The committee on prices controls the sources of supply of shops for articles in which they deal, and takes measures for the uninterrupted delivery to the shops of those articles in proper quantities and in extreme cases, at the expense of the proprietors, making necessary expenditures and organizing the temporary management of those shops whose proprietors cease trading or who maliciously do not take proper measures for securing the supply of goods for the shop, or who violate the rules of the committee.

9. For the unification of the supply of goods to shops, the committee on prices assumes the duty of a purchasing center which supplies all stores under its control; while the proprietors for that purpose, place at its disposal all their connections, knowledge and technical and administrative apparatus, and supply such funds as they ordinarily disburse for supplying their shops with goods. The committee on prices has the right to organize purchasing centres, and may increase, in case of necessity, the representation of the proprietors of shops on the committee to four members instead of five.

10. The committee on prices sees to it that the shops under its control carry out all regulations of the authorities regarding the distribution of products among the population, whether by cards or on some other basis.

11. The committee on prices of each city elects representatives to the all-city committee on prices, which coordinates the activity of separate committees under the direction of the central, regional and local boards of national economy, and in accordance with their regulations.

12. For the expense connected with the business of the committees on prices and the maintenance of their personnel, a deduction from the profits of the commercial establishments under their control is made in suitable proportions and by their order.

13. Executive authority for carrying out this ordinance in each city, including the formation of a commission provided for in Clause 3, is given to local trade unions of commercial-industrial

employees, and, in case of the absence of such, to the local Soviet of Workmen's Deputies; or in the absence of such Soviet, to the city council, or, in case of the absence of such city council, to the local consumers' leagues.

14. This ordinance shall be put into effect not later than the month of February. Persons guilty of violating it are liable to imprisonment for a period not longer than one year, and to a fine at the discretion of the Revolutionary Tribunal.

Committee on Prices of the Supreme Council of National Economy:

V. SMIRNOV,  
N. LARIN.

January 30, 1918.

## THE SUPPLY OF AGRICULTURAL IMPLEMENTS

To factory and mill committees and representatives of manufacturing enterprises.

The Supreme Board of National Economy has now undertaken the organization of the entire business of supplying the agricultural population with agricultural machinery and implements. In order that all this work may be carried out successfully, it is necessary that the Supreme Board of National Economy should have at its disposal exact information about all those establishments which at this moment have already changed or are ready to change to the production of agricultural machinery. Only with all this information at hand will it be possible to organize systematically this branch of national economy, which is most important for the Russian Republic, and to avoid in the future those ills which may be caused by an unorganized change from war production to peace work. Moreover, all the information is necessary for the apportionment of orders for agricultural machines and implements, which the Supreme Board of National Economy will soon place.

In view of what has been said, we urgently request all factory and mill committees and manufacturers, or their organizations to furnish in writing the most complete information about their establishments which have to do with the manufacture of agricultural machinery, indicating the number of workmen, the machine equipment, and the possible minimum production per month, together with a statement of the machine and implements (type and patent), necessary in rural economy, for which they can take orders.

In view of the exceptional importance of the matter of supplying our rural economy, we respectfully request the provincial papers to reprint this appeal.

The Supreme Council of National Economy.

## **ORDERS OF THE PEOPLE'S COMMISSIONERS OF EDUCATION OF THE WESTERN PROVINCES AND FRONT**

The following orders are selected from a group of six educational documents published at Petrograd, March 10, 1918. The omitted orders, Nos. 3-5, relate to the budget for 1919 and to routine matters.

### No. 1.

To all primary and secondary educational institutions of the western provinces.

I propose to the administration of all the above mentioned educational institutions, from the date of the publication of this order, not to discharge students for nonpayment of dues. As to those who have already been discharged before this order was published, they must immediately be reinstated.

I propose to all departments, of public education in local Soviets of Workmen's, Soldiers', and Peasants' Deputies, to attend strictly to the carrying out of my order. The question of the legal position of students who have not paid their school dues will be explained in the near future.

No special notification will be given to each educational institution, and the present order becomes the law of the land from the date of its publication in the newspaper *Sovietskaya Pravda* [Soviet Truth].

### No. 2.

Having in mind to afford to the large popular masses access to books, the Commissariat of Public Education will shortly proceed to regulate the library business and its organization on new principles. In view of this the Commissar directs that:

I. All libraries found within the boundaries of the western provinces and front, and belonging to municipalities, public institutions, or organizations of various sorts, or to private persons, are taken over for the benefit of public educational institutions in local Soviets of Workmen's, Soldiers', and Peasants' Deputies, and, in the city of Smolensk, by the local section of public education of the provincial commissariat.

II. All institutions, organizations, and private persons possessing libraries in the city of Smolensk must, within five days following the date of the publication of this order in the newspaper *Sovietskaya Pravda*, present to the Commissariat of Public Education exact information concerning:

- (1) the location of the libraries belonging to them;
- (2) the number of volumes found in the libraries;
- (3) the contents of the libraries (complete catalogues of the books must be presented, and in case such do not exist, then general information concerning the character of the books collected.
- (4) the periodical publications subscribed to by the libraries;
- (5) the number of subscribers;
- (6) the rules adopted for the use of these books.

Note.— This order does not affect persons who have libraries consisting of less than 500 volumes, if these libraries are not intended for public readers.

III. In case reading-rooms are found at such libraries, it is necessary to indicate:

- (1) the list of periodical publications found in the reading-room;
- (2) statistical data, if such are at hand, regarding the reading-room visitors.

IV. Institutions, organizations, and private persons possessing libraries outside the boundaries of the city of Smolensk and of the government of Smolensk must present the information indicated above, within a week from the date of the publication of this order, to the proper section of local Soviets of Workmen's, Soldiers' and Peasants' Deputies. The latter, upon receipt of the data, must furnish copies of the same to the commissar of Public Education of the western provinces and front.

V. Those who fail to comply with this order will be turned over to the Military Revolutionary Tribunal.

#### No. 6.

It is the duty of all owners of moving-picture houses in the city of Smolensk, from the date of the publication of this order in the newspaper *Sovietskaya Pravda*, to present for approval to the provincial Commissariat of Public Education the programmes and liberties of the pictures proposed to be exhibited by them.

It is forbidden to show pictures not approved by the Commissariat.

In those cases in which the Commissariat shall find it necessary the pictures, before being shown to the public, must be shown for examination to persons specially designated by the Commissariat.

Moving-picture enterprises not complying with this order will be at once confiscated.

The Commissioner of Public Education of the Western Provinces and Front:

PIKEL.

## **ABOLITION OF INHERITANCE**

I. Inheritance, whether by law or by will is abolished. After the death of an owner, the property which belongs to him whether movable or immovable, becomes the property of the Government of the Russian Socialist Federated Soviet Republic.

Note.— The discontinuance and transfer of rights of utilization of farm lands is determined by the rules provided in the fundamental law of the socialization of the land.

II. Until the issuance of a decree dealing with general social arrangements, relatives who are in need (i.e., those who do not possess a minimum maintenance), and who are incapable of work, such relatives being in a directly ascending or descending line, full or half-brothers or sisters, or spouse, of the deceased receive support from the property left by the deceased.

Note 1.— No distinction is made between the relationship that arises within wedlock and that which arises outside of wedlock.

Note 2.— Adopted relatives or children and their descendants are put upon the same footing as relatives by descent whether as to those who adopted them or as to those who have been adopted.

III. If there is not enough of the property remaining to support a spouse and all surviving relatives, as enumerated above, then the most needy of them must be provided for first.

IV. The amount of allowance to be given a spouse and surviving relatives from the property of the deceased is determined by the institution conducting the affairs of social security in the Governments, and in Moscow and Petrograd by the municipal Soviets of Workmen's and Peasants' Deputies, in agreement with the persons who have the right to receive the allowance, and, in case of dispute between them, by the local court, according to the usual legal procedure. Cases of this sort are under the jurisdiction of the Soviets of Workmen's and Peasants' Deputies and the local court of the last place of residence of the deceased.

V. All property of the deceased, other than that enumerated in Article IX of this decree, comes under the jurisdiction of the local Soviet, which turns it over to the bureaus of institutions having control in those localities of similar property of the Russian Republic, according to the last place of residence of the deceased or according to the place where the property is situated.

VI. The local Soviet published, for the purpose of general modifications, the death of the property owner, and calls upon the persons who have a right to receive support from the said property to appear within a year from the date of the publication.

VII. Those who do not declare their claims before the expiration of the year following the publication, as provided in the above article, lose their right to receive support from the property of the deceased.

VIII. From the property of the deceased are paid, first, the expenses of the administration of the property. The relatives and spouse of the deceased receive their allowances before the creditors are paid. The creditors of the deceased, if their claims are recognized as proper to be paid, are satisfied from the property after the deductions indicated above, on condition, in case the property is insufficient to cover all demands of the creditors, that the general principles of the meeting of creditors be applied.

IX. If the property of the deceased does not exceed 10,000 rubles, or in particular consists of a farm house, domestic furniture and means for economic production by work, in either city or village, it comes under the immediate control of the spouse and relatives enumerated in Article II of the present decree, who are present. The method of control and management of the property is arranged by agreement between the spouse and relatives, and, in case of their agreement, by the local tribunal.

X. The present decree is retroactive as regards all inheritances discovered before it was issued, if they have not yet been acquired by the heirs, or, if acquired, if they have not yet been taken possession of by the heirs.

XI. All suits now pending respecting inheritances, the probate of wills, the confirmation of the rights of inheritance, etc., are deemed to be discontinued, and the respective hereditary property is to be at once turned over for administration to the local Soviets or institutions indicated in Article V of the present decree.

Note.— Concerning hereditary properties discovered before the present decree is issued — properties enumerated in Article IX of the present decree — a special regulation will be issued.

XII. The people's Commissar of Justice is empowered, in agreement with the Commissariat of Social Security and Work, to issue a detailed instruction concerning the enforcement of the present decree.

The present decree is of force from the date of its signature, and is to be put into operation by telegraph.

President of the Central Executive Committee:

**SVERDLOV.**

Secretary of the Central Executive Committee:

**AVANESOV.**

April 27, 1918.

## GRAIN CONTROL

The disastrous undermining of the country's food supply, the serious heritage of the four years war, continues to extend more and more, and to be more and more acute. While the consuming provincial governments are starving, in the producing governments there are at the present moment, as before, large reserves of grain of the harvests of 1916 and 1917 not yet even threshed. This grain is in the hands of tight-fisted village dealers and profiteers, of the village bourgeoisie. Well fed and well provided for, having accumulated enormous sums of money obtained during the years of war, the village bourgeoisie remains stubbornly deaf and indifferent to the wailings of starving workmen and peasant poverty, and does not bring the grain to the collecting points. The grain is held with the hope of compelling the government to raise repeatedly the prices of grain, at the same time that the holders sell their grain at home at fabulous prices to grain speculators.

An end must be put to this obstinacy of the greedy village grain profiteers. The food experience of former years showed that the breaking of fixed prices and the denial of grain monopoly, while lessening the possibility of feasting for our group of capitalists, would make bread completely inaccessible to our many millions of workmen and would subject them to inevitable death from starvation.

The answer to the violence of grain owners toward the starving poor must be violence toward the bourgeoisie.

Not a pood shall remain in the hands of those holding the grain, except the quantity needed for sowing the fields and provisioning their families until the new harvest.

This policy must be put into force at once, especially since the German occupation of the Ukraine compels us to get along with grain resources which will hardly suffice for sowing and curtailed use.

Having considered the situation thus created, and taking into account that only with the most rigid calculation and equal distribution of all grain reserves can Russia pass through the food crisis, the Central Executive Committee of all Russia has decreed:

1. Confirming the fixity of the grain monopoly and fixed prices, and also the necessity of a merciless struggle with grain speculators, to compel each grain owner to declare the surplus above what is needed to sow the field, and for personal use, according to the

established normal quantities, until the new harvest, and to surrender the same within a week after the publication of this decision in each village. The order of these declarations is to be determined by the People's Food Commissar through the local food organizations.

2. To call upon workmen and poor peasants to unite at once for a merciless struggle with grain hoarders.

3. To declare all those who have a surplus of grain and who do not bring it to the collecting points, and likewise those who waste grain reserves on illicit distillation of alcohol and do not bring them to the collecting points enemies of the people; to turn them over to the Revolutionary Tribunal, imprison them for not less than ten years, confiscate their entire property, and drive them out forever from the communes; while the distillers are, besides, to be condemned to compulsory communal work.

In case an excess of grain which was not declared for surrender, in compliance with Article 1, is found in the possession of any one, the grain is to be taken away from him without pay, while the sum, according to fixed prices, due for the undeclared surpluses, is to be paid, one-half to the person who points out the concealed surpluses, after they have been placed at the collecting points, and the other half to the village commune. Declarations concerning the concealed surpluses are made by the local food organizations.

Further, taking into consideration that the struggle with the food crisis demands the application of quick and decisive measures, that the more fruitful realization of these measures demands in its turn the centralization of all orders dealing with the food question in one organization, and that this organization appears to be the People's Food Commissar, the Central Executive Committee of all Russia hereby orders, for the more successful struggle with the food crisis, that the People's Food Commissar be given the following powers:

1. To publish obligatory regulations regarding the food situation exceeding the usual limits of the People's Food Commissar's competence.

2. To abrogate the orders of local food bodies and other organizations contravening the plans and actions of the People's Food Commissar.

3. To demand from institutions and organizations of all departments the carrying out of the regulations of the People's Food Commissar in connection with the food situation without evasions and at once.

4. To use the armed forces in case resistance is shown to the removal of food grains or other food products.

5. To dissolve or reorganize the food agencies in places where they might resist the orders of the People's Commissar.

6. To discharge, transfer, turn over to the Revolutionary Tribunal, or subject to arrest officials and employees of all departments and public organizations in case of interference with the orders of the People's Commissar.

7. To transfer the present powers, in addition to the right to subject to arrest, above, to other persons and institutions in various places, with the approval of the Council of the People's Commissars.

8. All regulations of the People's Commissar, related in character to the Department of Ways of Communication and the Supreme Council of National Economy, are to be carried through upon consultation with the corresponding departments.

9. The regulations and orders of the People's Commissar, issued in accordance with the present powers, are verified by his collegium, which has the right, without suspending their operation, of referring them to the Council of Public Commissars.

10. The present decree becomes effective from the date of its signature and is to be put into operation by telegraph.

President of the Central Executive Committee of All-Russia:  
V.A. SVERDLOV.

President of the Council of People's Commissars:  
V. OULIANOV (LENINE).

Secretary of the Central Executive Committee of All-Russia:  
AVANESOV.

May 14, 1918.

## GOVERNMENT PUBLICATIONS

Taking into consideration on the one hand the idleness which for various reasons exists among printers, and on the other scarcity of books, the people's Commissariat of the Education through its literary publishing department in co-operation with the departments of education outside the schools, school departments and departments of science and art, and with the assistance of representatives of the printers' union, and other interested societies, as the Commissariat shall see fit, and of experts especially invited by it, shall immediately undertake extensive publication.

First in order must come a cheap popular edition of the Russian classics. Those works for which the period of authors' right has ended must be republished.

The works of all authors thus transferred from private to public ownership may, by a special order of the National Commissar of Education regarding each author, be declared a government monopoly, for a period, however, not exceeding five years. The Commissariat is to make use of this right with regard to those literary celebrities whose works, in accordance with this law, become the property of the people.

The publication of these works may be arranged in two series:

1. A complete scientific edition, the editorship of which should be entrusted to the department of Russian language and letters of the Academy of Science (after its democratization and adaption to the new governmental and public life of Russia).

2. An abbreviation edition of selected works. Each selection is to constitute a single, compact volume. In the selection the editor is to be guided, among other considerations, by the suitability of the works to the working people, for whose benefit these popular editions are intended. Both the entire collection and separate, more important works, are to be accompanied by prefaces by authoritative critics, historians of literature, etc. To edit these popular publications a special collegium should be created of prominent representatives of educational, literary, and scientific societies, specially invited experts, and delegates of workmen's organizations. Editors, confirmed by this Commissariat of Publication Control, must present to that body their plans of publication together with their commentaries of every description.

The popular edition of classics is to be sold at cost, and, if means shall permit, even below cost, and may even be given free through the libraries which serve the working democracy.

The Government Publishing House should further see to the publication of all sorts of text-books. The bringing up to date and correction of old manuals should be carried on through a special commission on manuals, consisting of delegates from educational, scientific and democratic organizations and specially invited experts.

The Government Publishing House is likewise granted the right to subsidize publications, both periodicals and books, undertaken by societies and individuals and acknowledged to be useful to the general public, with the proviso that their subsidies, if the publication proves to be profitable, shall be refunded to the government as a first lien.

In order to undertake immediately this important public business of the Soviet of People's Commissars, it is proposed to appropriate and place at the disposal of the Government Commissariat of Education the sum of a million and a half rubles.

All printing orders should be given exclusively at the direction of the printers' union, which regulates its distribution through the autonomous commissariats of the various printing offices.

The People's Commissar:

A. V. LUNACHARSKY.

Secretary:

D. I. LESHTSHENKO.



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**EXHIBIT 98**

**FEBRUARY 10, 1920**

**Supreme Court of the District of Columbia.**

**OCTOBER TERM, 1919.**

**Law No. 63134.**

**THE UNITED STATES OF AMERICA, EX REL. THE WORKINGMEN'S  
COOPERATIVE PUBLISHING ASSOCIATION, RELATOR,**

*against*

**ALBERT S. BURLESON, POSTMASTER GENERAL OF THE UNITED  
STATES, RESPONDENT.**

**ANSWER OF ALBERT S. BURLESON, POSTMASTER GENERAL OF THE  
UNITED STATES, RESPONDENT, TO THE RULE TO SHOW CAUSE  
AND TO THE PETITION FOR MANDAMUS.**

**JOHN E. LASKEY,  
*United States Attorney.***

**WILLIAM H. LAMAR,  
*Solicitor for the Post Office Department,  
Attorneys for the Respondent.***

**FILED DECEMBER 22, 1919.**

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# Supreme Court of the District of Columbia.

THE UNITED STATES OF AMERICA, EX REL.  
the Workingmen's Cooperative Publish-  
ing Association, relator,

against

ALBERT S. BURLESON, POSTMASTER GEN-  
eral of the United States, respondent.

Law No. 63134.

*ANSWER OF ALBERT S. BURLESON, POSTMASTER GENERAL OF THE  
UNITED STATES, RESPONDENT, TO THE RULE TO SHOW CAUSE  
AND TO THE PETITION FOR MANDAMUS.*

*To the Supreme Court of the District of Columbia:*

The respondent, Albert S. Burleson, Postmaster General of the United States, reserving the benefit of exception and objection to the errors and insufficiencies of the petition for the rule to show cause, and to the jurisdiction of the court, and to the lack of status of relator to ask for, and to be granted, the rule to show cause, nevertheless, answering the same, states as follows:

1. For the purpose of this suit, he admits the corporate capacity of the relator; that its principal office is located in the borough of Manhattan, city of New York; that it has published a daily newspaper known as the New York Call for several years last past, but as to the other matters in paragraph 1 of the petition alleged, he says he has no knowledge.

2. He admits the allegations contained in paragraph second of the petition relative to the publication of the New York Call since the 1st day of May, 1908, as a daily evening newspaper every day of the week except Sunday, and that later it became a daily newspaper and was published every day of the week including Sunday; that soon after the publication of the paper began it was admitted to the second class of mail in the United States Post Office and remained in possession of the second class mailing rights or privileges until the 13th day of October, 1917; that on the date last named the second class mailing privileges were revoked or can-

celed by the Post Office Department. As to the allegation that at all times since its publication said newspaper has been circulated generally throughout the city of New York and elsewhere both by sales upon the street and by circulation through the United States mails or otherwise, he says that he has no knowledge further than the information contained in sworn statements as to the circulation of said New York Call on file in the Post Office Department. As to the allegations that after its second class mailing rights or privileges were revoked or canceled and on account thereof it lost a large number of subscribers and was forced again to become a daily evening newspaper, he says that he has no knowledge beyond the fact that the publication was changed to an evening paper. As to the allegation that beginning on or about the 3d day of December, 1917, the paper continued to be circulated through the United States mails as first class and third class matter, he says that he has no knowledge as to the extent the mails have been so used. He admits that on or about the 12th day of August, 1918, the publication again became a morning newspaper and has since been published and circulated as a morning paper. As to the allegation that it has been continuously so published and circulated, he says that he is without specific knowledge. He admits that at all times during the existence of the publication its office of publication was in the Borough of Manhattan, city of New York.

3. He denies the allegation that at all times since it began publication said newspaper has complied with all of the provisions of law relating to publications which are entitled to second class mailing rights or privileges under the laws of the United States, and he avers that on divers occasions as hereinafter duly set forth the relator has persistently and flagrantly violated the act of June 15, 1917, as amended, known as the espionage act, and section 211 of the Penal Code of the United States, as amended. As to the allegation that at no time since the newspaper began publication has it or the petitioner been prosecuted for any violation of law, he says that he has no knowledge.

4. As to the allegation contained in paragraph fourth of the petition that beginning on or about December 3, 1917, and ending August 12, 1918, issues of the publication were circulated through the United States mails either as first-class or third-class matter, he says that during said period 63 issues of said publication were declared nonmailable by the Post Office Department and were excluded from the mails (so far as it was practicable to do so).

5. He admits the citation from the Post Office Department, dated October 2, 1917, on the ground as stated in the petition that it was not received until October 8, 1917 (but says that he has no knowledge of the cause of the delay). He admits that a telegram was sent to the Third Assistant Postmaster General requesting an adjournment of the hearing, and the telegram of the Third Assistant Postmaster General in reply as alleged. He denies that no specific charge of any kind was served upon the petitioner with the citation or otherwise, and says that the citation was sufficient and in accordance with the long established departmental practice and is as follows:

C. D. No. 121126.

POST OFFICE DEPARTMENT,  
THIRD ASSISTANT POSTMASTER GENERAL,  
DIVISION OF CLASSIFICATION,

*Washington, October 2, 1917.*

PUBLISHER, THE NEW YORK CALL,  
444 Pearl Street, New York, N. Y.

SIRS: You are hereby notified that, in accordance with the act of Congress approved March 3, 1901 (ch. 851, 31 Stat. L., 1107), you will be granted a hearing at the office of the Third Assistant Postmaster General, Washington, D. C., at 3 p. m., on Tuesday, October 9, 1917, to show cause why the authorization of admission of the New York Call to the second class of mail matter under the act of March 3, 1879 (ch. 180, sec. 14, 1 Supp., 246), should not be revoked, upon the following ground: The publication is not a "newspaper or other periodical publication" within the meaning of the law governing mailable matter of the second class, it being in conflict with the provisions of the law embodied in section 481½, Postal Laws and Regulations.

Your appearance at the hearing may be in person or by representative. In any event, your answer must be in writing. It should be submitted on or before October 9, 1917, and will be given the same consideration as though you appeared in person or by representative.

Respectfully,

(Signed) W. J. BARROWS,

*Acting Third Assistant Postmaster General.*

(Registered. 3585. SAM-z.)

He admits the sending of the letter of October 11, 1917, by the petitioner to the Third Assistant Postmaster General requesting specific charges, and the reply on October 13, 1917, of the Third Assistant Postmaster General, which he says is in full as follows:  
[Telegram.]

C. D. 121126.

POST OFFICE DEPARTMENT,

*Washington, October 13, 1917.*

PUBLISHER, NEW YORK CALL,  
444 Pearl Street, New York, N. Y.

Replying to your letter as published in the Call this morning, you are advised that the citation issued to you to show cause why the authorization for admission of the New York Call to the second class of mail matter should not be revoked sets forth the law under which it is issued, as well as the grounds for its issuance. The specific matter printed in your publication which led to the issuance of the citation will be presented at the hearing and you will be afforded full opportunity to make whatever defense you desire and to submit any additional matter you may deem material. The matter now before the department together with any matter which you submit will be considered at the hearing which at your request was postponed to October 15 at 2 p. m.

(Signed.) A. M. DOCKEY,

*Third Assistant Postmaster General.*

[WCW-jm. Collect.]

6. He admits the allegations contained in paragraph 6 of the petition relative to the hearing before the Third Assistant Postmaster General, and that previous thereto all issues of said publication had been allowed to circulate through the mails, and that no complaint had been served upon the petitioner to the effect that any of said issues contained matter in violation of law, and that petitioner has never been prosecuted for any violation of law based upon any articles contained in said publication. As to the allegation that the petitioner has never been prosecuted for any alleged violation of law during its existence, he says that he has no knowledge.

7. He admits the allegation contained in paragraph 7.

8. He admits that on October 28, 1917, the petitioner answered in writing the charges to the effect that the articles

quoted by the solicitor constituted nonmailable matter; and that said articles were quite numerous (and their general classification as set forth in the petition).

9. He admits the accuracy of the copy of the letter of the postmaster at New York to publishers of the Call as set forth in paragraph 9 of the petition. He admits that no other notice of or reasons for the withdrawal of the second-class mailing privilege of the relator have been furnished other than the exceptions taken to the matter contained in numerous issues of the publication at the hearing of the case before the Third Assistant Postmaster General.

10. He admits the accuracy of the copies of sections 7304, 7305, 7306 of the United States Compiled Statutes as set forth in paragraph 10 of the petition.

11. He denies that at all times during the publication of the New York Call and the Evening Call, as herein set forth, paragraph 11 of the petition, said publication has conformed to and complied with each and every one of the requirements of law relating to second-class mail matter.

12. He admits that copies of the issues of the New York Call from Monday, October 13, 1919, to Sunday, October 19, 1919, inclusive, are typical of the general physical character of said publication, but denies that they are typical of the contents of said publication with respect to the mailability, under the law, of matter which appears from time to time in said publication. He admits that said publication carries general news articles, editorial matter, special articles on economics, science, literature, and other subjects, and is not disseminated primarily for advertising purposes. As to the other matter and things in said paragraph of the petition therein set forth, he says that he has no special knowledge except such statements as have been submitted by the publishers relative thereto to the Third Assistant Postmaster General.

13. He admits the allegations contained in paragraph 13 of the petition.

14. He denies the allegations contained in paragraph 14 of the petition. He says that each issue submitted by the postmaster at the city of New York for instructions was considered by the Post Office Department, and such issues as were found from the matter contained therein to be in violation of the espionage act were declared nonmailable under said act, and the petitioner was so notified by the postmaster in the form and in accordance

with the uniform practice of the Department for many years in the administration of the espionage and other acts affecting the mailability of matter.

15. He admits the chronology of the circumstances connected with the revocation of the said second-class mailing privilege set forth in paragraph 15 in so far as they show successive events, but denies that those are correctly described in said paragraph of the petition. He admits the circumstances and dates connected with and the holding of certain issues of said newspaper by the postmaster at New York, and the subsequent action thereon as stated in said paragraph, with the exception of the date of the alleged telephone conversation between Raymond Wilcox, business manager of the Call, and Assistant Postmaster Mulker, of the New York City post office, with respect to which he has no knowledge.

16. He admits the allegation in paragraph 16 of the petition.

17. He admits the accuracy of the copies of letters from the postmaster at New York set forth in paragraph 17 of the petition, and that said letters are typical of those received by the petitioner from the postmaster relative to the holding by him of issues of the New York Call and the Evening Call, and relative to action taken by the postmaster or by the Solicitor for the Post Office Department relative to said issues. He denies the allegation that in no instance in which an issue was considered by the Post Office Department to be nonmailable were the grounds or reasons for said action or judgments stated. He says that in each such case the issues were held "nonmailable under the espionage law," and the publisher was so notified by the postmaster.

18. As to the allegation contained in paragraph 18 of the petition relative to the continued publication of the New York Call daily and Sunday since the revocation of the second-class mailing privileges, and its circulation through news stands, newsboys, and through the United States mails as first-class or third-class matter, he says that he has no definite knowledge.

19. He admits the allegations contained in paragraph 19 of the petition and he attaches hereto, and marked "Exhibit A," a true copy of the application therein referred to.

20, 21, and 22. He admits the allegations in paragraph 20, 21, and 22, and the accuracy of the copies of the letters from the postmaster contained therein.

23. He admits the accuracy of the copy of the letter of S. John Block to the postmaster, dated May 21, 1919, contained in paragraph 23 of the petition.

24. He admits the accuracy of the copy of the letter of the Third Assistant Postmaster General contained in paragraph 24 of the petition.

25. He admits the accuracy of the copy of the telegram to the Third Assistant Postmaster General by S. John Block, dated June 7, 1919, contained in paragraph 25 of the petition.

26. He admits the accuracy of the copy of the telegram by Barrows, chief clerk of the Third Assistant Postmaster General to S. John Block, dated June 7, 1919, contained in paragraph 26 of the petition.

27. He admits the accuracy of copy of the letter of the Third Assistant Postmaster General, dated June 11, 1919, contained in paragraph 27 of the petition.

28. He admits that S. John Block, of New York City, addressed a letter under date of June 14, 1919, to the Third Assistant Postmaster General, and he admits the accuracy of the copy contained in paragraph 28 of the petition.

29. He admits that the Third Assistant Postmaster General addressed a telegram under date of June 10, 1919, to S. John Block, of New York City, and he admits the accuracy of the copy contained in paragraph 29 of the petition.

30. He admits that on June 20, 1919, Mr. Block, accompanied by Mr. Ervin, editor of the New York Call, called at the office of Mr. Dockery at the Post Office Department and informally discussed with Mr. Dockery, the Third Assistant Postmaster General, and Mr. Wood, one of his assistants, the matter of the New York Call's application for the second-class mailing privilege, but avers that no stenographic notes were made of the remarks of any one at said conference, and further avers that the interview as set forth in paragraph 30 of the petition does not correctly show the remarks of the parties who participated therein. He admits that said officials several times asked the representatives of the New York Call if they had anything further to state, but avers that said questions were asked for the purpose of enlightening the department fully as to the position of said representatives of the Call, and for the purpose of giving them full opportunity to state every phase of their case.

31. He admits that since the date of the hearing, June 20, 1919, the petitioner had received no communication from the

postmaster at New York City or from the Post Office Department relative to any action taken with reference to said application for the second-class mailing privilege of the New York Call filed with the postmaster at New York on January 9, 1919, but avers that since the filing of said petition, to wit, on December 5, 1919, said application was rejected and the Third Assistant Postmaster General addressed the following communication to the postmaster at New York:

C. D. No. 121126.

POST OFFICE DEPARTMENT,  
THIRD ASSISTANT POSTMASTER GENERAL,  
DIVISION OF CLASSIFICATION,  
WASHINGTON, *December 5, 1919.*

POSTMASTER, *New York, N. Y.:*

The New York Call, published at your place, application for entry of which as second-class matter was made by the publisher on January 8, 1919, is hereby denied admission to the second class of mail matter, because it appears from the evidence in possession of the department that the publication is not a "newspaper or other periodical publication" within the meaning of the law governing mailable matter of the second class, it being in conflict with the act of June 15, 1917, the espionage act as amended by the act of May 16, 1918, as well as section 211 of the Penal Code, as amended.

(Signed) A. M. DOCKERY,  
*Third Assistant Postmaster General.*

(WCW-hd.)

He further avers that on December 6, 1919, the postmaster at New York sent the following communication to the publishers of the Call:

UNITED STATES POST OFFICE,  
DIVISION OF MAILS, SECOND-CLASS SECTION,  
*New York, N. Y.*

PUBLISHERS OF THE NEW YORK CALL, 112 *Fourth Avenue, N. Y.*

GENTLEMEN.— You are informed that the New York Call application for entry of which as second-class matter was

made by the publishers on January 8, 1919, is denied admission to the second-class of mail matter, because it appears from the evidence in possession of the department that the publication is not a "newspaper or other periodical publication" within the meaning of the law governing mailable matter of the second-class, it being in conflict with the act of June 15, 1917, the espionage act as amended by the act of May 16, 1918, as well as section 211 of the Penal Code, as amended.

Very respectfully,  
 T. G. PATTEN,  
*Postmaster.*  
 Per THOS. F. MURPHY,  
*Assistant Postmaster.*

(M-jj. (b).)

He denies that the delay on the part of the department in acting upon said application was wanton and willful or that its action with respect thereto has been autocratic, discriminating, undemocratic, contrary to the letter and spirit of the laws of the United States and the Constitution of the United States; that its course of conduct relative thereto has amounted to persecution of the New York Call, and avers that on divers occasions, as hereinafter fully set forth, the relator has persistently and flagrantly violated the act of June 15, 1917, the espionage act as amended by the act of May 16, 1918, as well as section 211 of the Penal Code, as amended, both prior to the filing of said application for the second-class mailing privilege on January 9, 1919, and up to the filing of the petition in this suit, and at no time since the filing of said application has the relator been entitled under the law to have the second-class mailing privilege granted to it. He admits that the New York Call has always openly and avowedly espoused the spirit of socialism and radical changes in government and industry, but denies that at no time in its history has the New York Call violated any laws or counseled or advocated the violation of laws, or that it has always advocated an orderly change in laws, political institutions, and the organization of industry.

32. As to the allegation contained in paragraph 32 of the petition that the New York Call and the petitioner have never been charged with or prosecuted for or convicted of any offense,

criminal or otherwise, under the laws of the United States, or any of its States and Territories, and that its editors, managers, and officers have also never been charged with or prosecuted for or convicted of any such offenses, he says that he has no specific knowledge. He denies the said allegation that although the Post Office Department was of opinion that a number of articles which appeared in the New York Call were of such a nature as to require the withdrawal of the second-class mailing rights, the Post Office Department, nevertheless, knowingly permitted the issues of said paper containing said articles to circulate through the mails, and avers that while much of such matter may have passed through the mails, the burden placed upon the post office establishment by the espionage and other laws made it physically impossible, with the force at its disposal, to detect and exclude from the mails all of the millions of pieces and hundreds of tons of mail placed in the mails in violation of such laws in sealed packages and unsealed wrappers so prepared for mailing as each piece had to be opened and read in order to detect its illegal character.

33. As to the allegation contained in paragraph 33 of the petition that the New York Call, through having been deprived of its second-class mailing rights, has suffered heavy loss and irreparable and unascertainable damage estimated at not less than \$200,000, represented by lost subscriptions and lost opportunities for increase in circulation, lost advertising and lost opportunities for increased advertising, he says that he has no knowledge. As to the further allegation in said paragraph that all profits that have been made or may be made through the publication of the New York Call have been and must be devoted, not to the personal gain of the members or the petitioner, but the improvement and enlargement of the New York Call and to furthering the principles and interests of the socialist movement, the Socialist Party, and the general labor movement, he says that he has no knowledge.

34. As to the matter contained in paragraph 34 of the petition, he says that the same amounts to a prayer for relief which can not be granted. He denies that the petitioner has not had the full protection under the laws of the United States or that the action of the department has been influenced by prejudice or has practiced autocratic and undemocratic discrimination.

35. He says that his action in revoking the second-class mailing permit of said New York Call, published by the relator, on the

13th day of November, 1917, and his declining to grant the application for the reentry of the New York Call to the second class mailing privilege on its application filed January 9, 1919, involved the exercise of judgment and discretion on his part, and, in view of the facts and circumstances before the respondent and the Post Office Department in the instant case, the exercise of judgment and discretion of the respondent and the action of the respondent are not subject to be reviewed, reversed, set aside, or controlled by a court of law, nor can his action in that behalf be commanded, directed, or controlled by the writ of mandamus, as the relator in its petition has prayed.

36. Yet, further answering, he says that among other duties he is required by statute to execute all laws relative to the Postal Service, to supervise generally the business of the Post Office Department, and to prescribe regulations for the distribution of such business among the other officials and employees of said department for its due performance by them.

Matter carried by mail, by the act approved March 13, 1879 (20 Stat., 359), is divided into four classes. The classification is, by appropriate regulation, assigned to the Office of the Third Assistant Postmaster General, under the supervision of this respondent. This classification is based on the character of the matter to be mailed with rates of postage varying in each class, the lowest rate being that of the second class, for entry into which certain conditions are prescribed by law. It thus ensues that it is the legal duty of the respondent not only to determine whether these conditions for the entry of mail matter into the second class have been fulfilled, initially, so as to entitle the applicant to the low rate of postage chargeable in that class, but also to decide as occasion may arise whether these conditions either initially prescribed or which may be subsequently imposed by law, are being observed in such manner as to warrant the continued enjoyment of the privilege.

37. On the 24th day of June, 1908, there was issued upon the application of the relator, by the Third Assistant Postmaster General, a certificate or permit for the entry of its publication, the New York Call, into the mails as second-class matter, the conditions precedent to such classification having been fulfilled; this was addressed to the postmaster at New York City and was in the usual form, concluding with this provision: "The authority herein given is revocable upon determination by the Department

that the publication does not conform to the law," which action, as the respondent is informed and believes and therefore avers, was duly communicated to said relator by said postmaster through delivery of a true copy of the certificate to it, and said relator thereupon accepted the privilege conferred thereby and continued to enjoy it until on or about the 13th day of November, 1917, when the same, after hearing granted the relator, was annulled. And this respondent, while again protesting that his action in the premises involves the exercise of judgment and discretion, in him by law reposed, is not here reviewable, nevertheless, further, answering, says:

As to this honorable court is well known, the Congress of the United States of America by joint resolution of April 2, 1917, approved by the President of the United States on the 6th day of April, 1917, formally recognized and declared that a state of war thrust upon the United States of America by the Imperial German Government existed between the two Governments; and thereafter the Congress by act approved May 18, 1917, commonly called and known as the conscription and draft law, did authorize the President to increase temporarily the Military Establishment of the United States, and thereafter by act approved June 15, 1917 — the espionage law aforesaid — did among other things declare every publication of any kind in violation of its provision nonmailable, and did forbid the same to be conveyed in the mails or delivered from any post office or by any letter carrier; and thereupon it became and was the duty of the respondent to inquire into and pass upon publications tendered for mailing and to prevent, so far as in him the power lay, the reception in, transmission through, or delivery by the postal service of any such prohibited matter.

38. From the date of the declaration of war and continuously down to the acts complained of by the relator this respondent avers that, from matter received at the Post Office Department from various sections of the country, he finds there existed an organized propaganda to discredit and impede in every way the Government in the prosecution of the war, with the purpose of defeating the objects for which the Government was spending billions of dollars

and was called upon to sacrifice thousands of lives. The publications forming this propaganda in many cases subtly guard their utterances in the attempt to avoid the criminal liabilities of their acts under said espionage law; they have been, nevertheless, united in publishing the same character of matter, whether partially true or entirely false, and daily accomplished results in clear violation of law. Among these publications is that of the relator, the New York Call.

These publications, including the New York Call, in varying language brand the declaration of war by our Government as a crime against the people of the United States and against the nations of the world, and represent that in all history there has been no war more unjustifiable than the one in which we are engaged; that no greater dishonor has ever been forced upon the people than that which the capitalist class is forcing upon this Nation against its will. They advocated active and public opposition to the war through demonstrations, mass petitions, and all other means within the power of their readers and the organizations they represented, and unyielding opposition to all proposed legislation for military or industrial conscription; opposition to the Liberty loans upon which the Government was dependent to finance its war operations, and held up to admiration and sought to make martyrs of notorious violators of the espionage law who were indicted and convicted in the courts from time to time for acts in violation of that statute.

39. By representations and complaints from sundry good and loyal citizens of the United States, and from personal reading and consideration of the issues of relator's publication, from the date of the declaration of war to the time of the service of citation upon it, and the hearing granted in pursuance thereof, whereof in his petition relator complains, it seemed to this respondent, in the exercise of his judgment and discretion and in obedience to the duty on him reposed, as well by the general statutes as by the special provisions of said espionage law, that the provisions of the latter act were systematically and continually violated by the relator's publication; therefore, he directed the issuance of said citation and the granting of said hearing, which were duly and legally done and had by and before said Third Assistant Postmaster General, and upon review and consideration whereof by this respondent, not only in accordance with departmental prac-

tice, but on account of the special importance attributed by the respondent to this class of cases in the war emergency, approved the action of the Third Assistant Postmaster General and directed the suspension and annulment of the second class privilege of relator.

Among other matters and things thus considered by the respondent himself, on such review, and as he is advised and believes, and therefore avers, at the hearing aforesaid, was a file of the relator's publication for the three months next preceding the issue of the citation upon it on October 2, 1917, in which occurred sundry editorials and other statements of the relator's publication.

During said period when the relator's publication was being issued and mailed, the Government of the United States was engaged in increasing its naval forces by enlistment and its military forces both by enlistment and by the selective draft, and was also engaged in raising the necessary funds with which to meet its expenses in conducting the said war with Germany by calling upon the citizens of the United States to subscribe for and purchase the bonds of the United States, and other forms of certificates of indebtedness of the United States; during the same period the United States was mobilizing and training its military and naval forces for the conduct of the said war with Germany, and was engaged in calling upon the people of the United States to conserve food and render various services, and, in general, in mobilizing every resource of the United States and its people for the purpose of a speedy, effective, and successful prosecution of said war with Germany; that during the said period the armies and navies of the nations co-operating with the United States in the said war with Germany were engaged in military and naval operations against Germany, and the Government of the United States was supplying said nations from time to time with funds with which to promote their success against the common enemy of the United States and the said nations co-operating with the United States.

The following are a few excerpts by date and title from some of the aforesaid issues of said publication, the issues themselves being hereby tendered, together with the entire file for the period named, to the court:

[Issue of July 20, 1917.]

APPLYING THE GUILLOTINE.

"War for Democracy!" a placard read,  
The Colorado miner shook his head.

"Small nations' rights," a politician cried,  
"Hypocrisy!" the Irishman replied.

"Your country calls! Into its army come!"  
"My country," mused the dweller of the slum.

"End to atrocities," said some one, shocked,  
But this St. Louis Negroes mutely mocked.

"The right to assemble is sacred here."  
From Boston came an unmistakable jeer.

"We have free speech," the teacher taught her class,  
"Two years, ten thousand dollars' fine, my lass."

"Freedom of press no power from us can seize."  
A post official otherwise decrees.

"Free citizens, kill German junkerdom!"

"Draft," laughed the wage-slave, toiling for a crumb.

[Issue of July 20, 1917.]

THE ECONOMIC ARGUMENT.

While we are being surfeited with articles damning the Prussian militarists for their credos anent the desirability of war as a sort of needful tonic for the human race in order to keep virile and healthy, let us not close our eyes to the fact that we have in our midst a considerable number of almost exactly the same sort of people. They have not yet quite elaborated it into the well-rounded-out creed of the Prussian militarist, but probably they would if they had time; and, curiously enough, there is in many of these pronouncements, a suggestion of the Socialist point of view that our economic system makes war inevitable.

One such literary warrior, Commander Stearns, contributes a series of articles on the necessity of preparedness to the *Reservist*, a naval recruiting organ published at New-

port, R. I. The stuff, evidently, is written as a come-on for recruits of a little more intelligence than the average, but who have not yet got past the idea of "theirs not to reason why." Here is a sample gem from the commander's production:

"There is a natural chain of sequence in a nation's evolution vitally affecting her policy, i. e., birth of industry, necessity for markets, attendant demand for control of sea highways, need for a navy to exercise this control, bringing in its train the necessity for naval bases. Fortunately, a geographical position possessing strategic value commercially will usually possess strategic value from a military standpoint."

All this probably is very true, provided the economic system is accepted as inevitable. But it is precisely the same idea that led Germany into war. The birth of industry, the necessity for the control of markets, the big Navy and the "demand for the control of sea highways," which is cleverly "moralized" into "freedom of the seas."

This man really is telling prospective recruits that they are wanted to fight for capitalists and capitalist profit, and nothing more. In a certain sense, he gives them the Socialist view of war; connects it up with economics, with the need of the capitalist for markets and ever more profits; but he assumes, and probably correctly, also, that they never will question the economic system itself that demands this constant human sacrifice through war and the preparations for it. All that the Socialist would need to add to this is the information that that economic system can be removed and another substituted for it that does not demand a constant tribute of flesh and blood.

But when that information is withheld or ignored, when no question is raised about the system itself, it is no very difficult task to cover the whole hideous condition with a mantle of patriotism, duty, honor, glory, decorated with elaborate ethical and religious fringes. In this art we are still behind the Prussian militarist, but not so far behind. And the irony of the situation is, that in all probability Commander Stearns would vigorously denounce Bernhardt, Treitschke, and other high-class Prussian exponents of the same creed in which he himself is as yet a junior pupil.

[Issue of July 21, 1917.]

## MOBILIZING IDEAS.

[By Max Eastman. Reprinted from the Masses.]

President Wilson's talent for mobilizing noble ideas in support of whatever he has decided to do will be almost as helpful to the entente as his armies. There are signs that the plain people of the world, in their weariness, are growing dubious of a war whose concrete purposes are kept secret from them. They are tactless enough to keep wondering, and even asking to know, what they are fighting about. Russia takes the lead in posing this question to the entente, because in Russia the official crust has been lifted off and the people are able to stand up and speak. But the question is there in all the countries, and the gentlemen in charge are exercised to know how to answer without telling any facts. President Wilson shows them how to answer with abstract ideas, and that is why he is so popular with the statesmen of the entente.

[Issue of July 25, 1917.]

## [Cartoon.]

This cartoon (reprinted from the Masses, August, 1917) represents a group of corpulent gentlemen gathered about a table and apparently discussing war plans. A figure stands in the doorway representing some one who apparently has attempted to interrupt the conference about the table, and whose interference apparently is resented by the group. The figure represents Congress, and the following language appears below the cartoon: "Congress; Excuse me, gentlemen, where do I come in?" "Big business: Run along, now! We got through with you when you declared war for us."

(This cartoon is referred to in the opinion of Justice Rogers in the case of *The Masses v. Patten* (246 Fed., 37), the judge stating that the Postmaster General was not clearly incorrect in declaring this matter to be in violation of the espionage act.)

[Issue of Aug. 3, 1917.]

DRAFTED MAN NOTIFIES BOARD HE WILL NOT TAKE EXAMINATION FOR ARMY.

Abraham A. Weinstein, whose number in the draft is 1476, brought to the Call yesterday a letter with a request that it be published. It was a copy of one that he had sent to the exemption board No. 118.

Weinstein said he was forced to take the position he did because of the refusal of the Government to recognize conscientious objectors other than members of "well organized religious sects or organizations whose creed or principles are opposed to participation in war."

Weinstein felt that he was entitled to have the public know why he had refused to appear for physical examination and that his only method of doing this was to give out a copy of his letter to the board. The Call therefore publishes the following copy of that letter:

NEW YORK, Aug. 2, 1917.

CHAIRMAN OF EXEMPTION BOARD 118,

*Stuyvesant High School, City.*

DEAR SIR: I take the pleasure of informing you that I shall not appear for physical examination in reference to the draft as a protest against the refusal of the Government to recognize conscientious objectors. I am opposed to this war of nations, knowing they will benefit none but their instigators. As a Socialist and as a man I recognize the one enemy — the governing classes and the master classes of the world — as they are both united in the oppression and the suppression of the masses. I refuse to lay down my life or to take the life of my brother in Germany and Austria to perpetuate the sort of a democracy which we have here or to implant it abroad. My opinion of this democracy can be better voiced in the words of Carlyle, "They are not tended; they are only regularly shorn. They are made to do statute labor, to pay statute taxes, to fatten battle fields (called fields of honor) with their bodies in quarrels which are not theirs, their hand and toil in every possession of man; but for themselves they have little or none."

This is the democracy the masses have here, and you want me, against my will and conscience, to kill, to rob; to commit every atrocity, only that this may continue to exist.

I refuse.

Yours, respectfully,

ABR. A. WEINSTEIN, 1476.

[Issue of Aug. 5, 1917.]

[Cartoon.]

#### THE WHIRL OF THE WORLD.

This cartoon represents the figure of death in a military uniform pointing the way to the death theater, and to the side reading "Fourth Year reel of 'Death dance of the lunatics of the world'; price of admission, an arm, leg, eyes, mind, or your life." Approaching the figure of death and apparently seeking admission is the figure of a working man who says: "My boss said for me to see this show."

[Issue of Aug. 6, 1917.]

[Cartoon.]

#### A COLLECTOR WHO COLLECTS.

The figure of Death is represented as having invaded the family circle and laying a paper on the table marked "Cost of war \$848 per annum for each family," and says, "Before you eat, pay this."

[Issue of Aug. 11, 1917.]

#### WORTH WHILE, BUT TO WHOM?

The number of men killed or permanently disabled in the war thus far is greater than the total population, male and female, young and old, of Belgium, Alsace-Lorraine, and Serbia combined. Another two or three years of hostilities

such as our stay-at-home patriots talk of so coolly, and the added number of corpses, cripples, invalids, and maniacs will balance the whole population of northeastern France and Russian Poland.

Is the game worth the candle?

From the point of view of bankers, concessionaries, munition dealers, landed aristocrats, generals, diplomats, and a certain type of editors, in all countries, it certainly is. They win, whoever loses, and no matter how much others lose. Those of them who belong to the ultimately defeated nations win less than their colleagues in the ultimately victorious states; but even they win.

From any other point of view it is just as correct now as it was 30 months ago to answer the question, who is going to win the war? With the counter question, who won the San Francisco earthquake? The wage earners, the peasants and working farmers, the great mass of the small business men and of the professional men on both sides, are worse off physically, economically, and morally for every day that the struggle goes on.

When the spokesmen of capitalism, of aristocracy and of upper-class statesmanship, British or German, American or Austro-Hungarian, talk of establishing peace by "war to victory" we are irresistibly reminded of what the ancient barbarian quoted by Tacitus said of the Roman policy, "They make a wilderness, and call it peace."

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[Issue of Aug. 19, 1917.]

[Call's Sunday Magazine.]

#### WHY THE U. S. IS AT WAR.

Why did the United States enter the war? Thousands of reasons are given, from the "to make the world safe for democracy" explanation of President Wilson to those of George Sylvester Viereck and Jeremiah O'Leary. But, though reasons are as plentiful as blackberries, and infinitely more varied, the question still is asked.

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What were those rights of ours that needed protection? Evidently, the right to trade, to sell to any of the belligerents

who could take delivery of the goods anything they wanted and we had for sale — guns, shot, shell, explosives, and war material and supplies of all kinds. The Central Powers were the only ones that could not take delivery of the goods. To them, it seemed that what we insisted on as a moral right was the right to sell their enemies material to kill them. Naturally, they considered they also had a moral right to put an end to this one-sided traffic, but, as they could not possibly do it without killing American citizens and sinking American ships, they went ahead killing and sinking. They say that we had no moral "right" to supply material to kill them, and we say we had a moral "right" to sell and trade anything with all who were able and willing to buy. The two "rights," therefore, collided, and eventually war resulted. They were both "moral rights" both parties said so. And now there is war, and we won't give up — until Germany consents to renounce her policy — and Germany won't give up until we consent to renounce ours.

That is the start of an explanation, at any rate. And, so far as it goes, it is correct. It shows that the war started out of capitalists "rights" on this side, at least, property rights, trade rights.

And as this condition developed and intensified our capitalists saw, further, that Germany was not beaten, and might not be beaten without the help of the armed forces of the United States. They say, also, that if that condition came to pass, not only would the money they loaned to the allies be lost, but that a victorious Germany would invade the United States after disposing of its European enemies and hold the country up (the country being a synonym for themselves in this case) for indemnity.

The Tribune says nothing about that, but that is necessary to round out its explanation. When we say that the United States went into the war for material interests there is nothing reprehensible or shameful about it. The fact is simply as we have pointed out. That capitalists reasoning was sufficient, and we are strongly of the opinion that it was correct also. And from this point of view it is not at all difficult to explain why the United States entered the war.

[Issue of Aug. 24, 1917.]

## WHY WE WENT TO WAR.

Why is the United States in the war? It is said that great organizations of speakers are to cover the entire country, explaining this matter in thousands of school houses, city halls and other public buildings. Doubtless there will be a veritable Niagara of oratory spilled explaining just why we went over the precipice, but we doubt if any of the orators will be as concise, terse, direct and frank as Secretary Lane, who has just issued a pamphlet on the subject. He summarizes the whole matter as follows:

"Then why are we in the war? Because we could not keep out. The invasion of Belgium, which opened the war, led to the invasion of the United States by slow, steady logical steps. Our sympathies evolved into a conviction of self-interest. Our love of fair play ripened into alarm of our own peril."

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No government official spoke publicly of those slow, steady, logical steps while they were being taken. They only spoke of "rights." And President Wilson, to the very last moment, talked of peace. The slow, steady, logical, steps were taken in gumshoes. They advanced like a thief in the night, and not a single one of the Washington watchman on the tower told of the pussyfoot approach. Did they know of it? That is what Secretary Lane is careful not to say. Were they so ignorant that they did not know? Were they afraid to "trust the people?" If they did not know then, how do they know now? It is safe now to tell about it when we are in the war.

[Issue of Aug. 26, 1917.]

[Call's Sunday Magazine.]

## DIARY OF A SOLDIER.

Back to the trenches, back to the inferno that man's ambition has created and which man's weakness and cowardice perpetuates. I have endeavored to arouse within me some enthusiasm for war. I have told myself that I am fighting

to protect my native land, my home, my womenfolk, from the grasp of a brutal invader. But no, can not convince myself — that is, I think the secret of my trouble. Men can stand much; the endurance of the human body and mind is almost unbelievable, but the mental and physical endurance is considerably weakened when enthusiasm is lacking. War may have had its uses in days gone by, and even I who have seen, and am shortly to see again, the horrors which are its inevitable outcome admit that there may arise emergencies when war becomes a justifiable necessity. When such emergencies do arise the people know it and embark on war of their own volition.

It is this leaping to arms at the command of diplomats, kings and emperors, or in response to a manufactured public sentiment that constitutes the basic evil of wars such as the present one. The clash of empires is never justified. Empires never wage wars of self-defense; they wage wars of aggression and call it fighting for their existence on the grounds that expansion of territory and the assimilation of smaller nationalities are vital to their growth as empires. It is folly to suppose that any group of the present combatants could wrest liberty away from the others. Germany could never impose her will upon the people of the British Empire, even if there wasn't a gun among the Britishers, nor could England destroy German Kultur.

These are strange thoughts for a soldier, a potential here, whose name will be writ in marble for an admiring posterity to read. It needs only a German bullet to end my career and I in common with any deceased comrades achieve immortality — not personal immortality, but immortality en masse. An arch will be built and my name with a thousand others will be cut upon it, or perhaps a figure will be carved in stone to commemorate me, and others, under the comprehensive and picturesque pseudonym of "The Heroic Dead" and posterity shall gaze upon our proxy.

I saw again in my dreams the man I had murdered. In my dream my adversary spoke. "On the brink of eternity I shall await you." I awoke shivering and sleep came to me no more. As I lay awake the import of his words sank into my brain. He was waiting for me, kept back only by the barrier that keeps the dead from the living, and the moment

I die the barrier is removed and he springs upon me. There on the threshold of the great beyond we will renew that struggle commenced on the plains of Flanders, and locked in an embrace of hatred we will descend into hell, there to struggle forever.

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[Issue of Aug. 26, 1917.]

[Call Sunday Magazine.]

### THE CRIME OF CONSCIENCE.

[By Samuel Mild.]

Can any one dispute the fact that when a nation is being conscripted for war that that war is disapproved of by the nation? And if a nation disapproves of a war, how can that war be called a righteous war? And if the righteousness of a war is denied, or even disputed, how can any one be called a slacker who refused to participate in murder, not being certain of at least a just cause?

Who doubts that in the years to come, when the deluge of blood has run its course, the world will wish there had been more conscientious objectors to-day; that the world had been spared this greatest of disasters?

In times of war! What oceans of blood have been spilled since Henry IV had conceived the diabolic device of diverting the wrath of a discontented people by war! Who knows but that this universal carnage has been started for no other purpose than to befuddle and decimate the masses of awakening Europe! And yet, because the conscientious objector dares to deny the righteousness of the slaughter and refuses to bear the torch and wield the sword, he is charged with treason.

What matters it if in all his life he never had a quarrel; if he has sacrificed his years for the benefit of others; if his one ambition was the service of mankind? Perhaps he has been known for his generosity; for his mild disposition, for his scrupulousness in dealing with others. Nothing, nothing matters, once war is declared. At the command he must turn warrior; his temper, which was peaceful and yield-

ing, he must transform into the temper of the roaring lion. His gentleness, which he inherited from his mother, he must cast off for the savage ferocity of the tigress. His sensitiveness, which would have caused him to leap into the flames to save a kitten, he must tear out from his heart, and he must learn to hack, cut, pierce, poison, burn, and ravage human beings when the bugle blows. Why?

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[Issue of Aug. 27, 1917.]

GIVE THE POOR TRUSTS A CHANCE.

[By Scott Nearing.]

The entrance of the United States into the World War on April 6, 1917, was the greatest victory that the American plutocracy has won over the American democracy since the declaration of War with Spain in 1898. The American plutocracy urged the war; shouted for it; demanded it; insisted upon it, and finally got it.

The plutocracy welcomed the war—not because it was a war, but because it meant a chance to get a stronger grip on the United States. The 2 per cent of the people (1 person in each 50) who own 60 per cent of the wealth of the United States are not different from the other people of the country—they are no more selfish, greedy or ferocious. They realize that war is barbarous, and they would avoid it if they possibly could. They also believe that there are some things worse than war—the confiscation of special privileges, the abolition of unearned income, the overthrow of the economic parasitism, the establishment of industrial democracy. The plutocrats would welcome a war that promised salvation from any such calamities; they would also welcome a war that promised greater foreign markets, the destruction of foreign competition, more security for property rights and longer lease on life for plutocratic despotism.

[Issue of Aug. 28, 1917.]

## THE GREAT MADNESS.

[By Scott Nearing.]

The American plutocracy was magnified, deified, and consecrated to the task of making the world safe for democracy. The brigands had turned saints and were conducting a campaign to raise \$100,000,000 for the Red Cross. The malefactors of great wealth, the predatory business forces, the special privileged few who had milked the American people for generations became the prophets and the crusaders, the keepers of the ark of the covenant of American democracy.

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When Germany announced a blockade of England by her submarines as complete as the blockade which England has established over Germany and warned American shipping away from the waters surrounding the British Isles in the same way that England has warned American shipping away from the waters surrounding Germany, the American business interests put up a bitter cry of protest. The situation was critical. American business stood to lose billions. The President hurried to the rescue with his preposterous phrase, "armed neutrality," and asked Congress for permission to place guns and gunners on American merchantmen. While the President asked for this authority as a peace measure, it was pretty clear that armed neutrality would mean war the first time that an armed merchantman met a submarine.

[Issue of Aug. 31, 1917.]

## THE GREAT MADNESS.

## CHAPTER 7.—THE LIBERTY LOAN.

The Liberty loan was important to the American bankers who had financed the Allies, because it guaranteed allied credit. There were other things about it, however, that were even more significant than its assistance in international business. It gave the local business men a chance to do a piece of work of the utmost importance to their own security.

Everybody who was in touch with American public opinion on the 6th of April knew that the war was not popular. People were apathetic, indifferent, or actively hostile. There was little display of enthusiasm, except among the business men and their immediate adherents. The Liberty loan gave plutocracy a chance to put in every American home an economic argument (a bond paying  $3\frac{1}{2}$  per cent) in favor of of standing behind the Government.

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Some day, when all of the facts are collected, the story of the sale of the Liberty loan will be told, and it will be as hateful, as barbarous, and as brutal as any event since the war contracts of the Spanish-American War.

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The Liberty loan was a signal victory for the plutocracy, and an equally signal defeat for the democracy. It did more to bulwark the position of the plutocratic despots of the United States than it will ever do for liberty in Europe.

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The Liberty loan was probably more effective than any other single weapon in the hands of the business world as a club with which to coerce the workers. Heretofore the employer had run his own business as he pleased; now he was able to go further and tell his workers how they might spend their income.

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[Issue of Sept. 1, 1917.]

#### CONSCRIPTION.

Conscription possessed another advantage of supreme importance. Experience had shown that great armies and navies could not be raised by the volunteer system in a democracy. If the plutocracy was to put over its plan for a great army and navy behind its aggressive economical campaign into Mexico, Central America, and South America it must have conscription in order to provide the men for the military and naval forces.

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The conscription bill paved the way for a military system exactly like that which had been so savagely denounced in

Germany. It gave the American plutocracy the beginnings of a big, cheap army. It disposed of the uncertainties of volunteering, and provided the possibility of military education for every young American. At the same time the way was opened for the imposition of universal service, which was all that Prussia has ever demanded in the balmy days of her militarism. Then, too, a beginning was made toward industrial conscription, and the possibility was opened for the importation of coolie and peon labor, things which were not even thinkable in peace days. America, after two months' of war, had inaugurated what someone has called "the golden age of the drill sergeant," and fastened upon the United States the rudiments of European militarism in its most barbarous aspects.

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[Issue of Sept. 3, 1917.]

#### THE GREAT MADNESS.

#### CHAPTER 10.—SPREADING AMERICANISM WITH THE SWORD.

By July, 1917, the billboard enlistment campaign was couched in such words as "The Regulars are in France; join them now." "Enlist immediately so as to fight on German soil and not on United States soil." The German autocracy was on the defensive; the American plutocracy had become the aggressor. The Regular Army had already been transported 4,000 miles and a conscript army of a million men was in process of formation to wage an aggressive war in the interests of the British ruling classes.

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And the American people stood for it. Emotionalized, dazed, stupefied, and blinded by the great madness that possessed their souls, nearly a hundred millions of people cast aside their most cherished principles, sacrificed their hard-won liberties, and began spreading brotherhood and democracy with the sword.

[Issue of Sept. 5, 1917.]

## THE GREAT MADNESS.

## CHAPTER 12.—THE PEOPLE AWAKE.

The plutocracy had won everything for which it had been fighting — immunity, power, wealth. The people were war mad — at least, there was enough of the war madness in the country to enable the vested interests to put across anything that they wanted.

Three years of ceaseless effort on the part of the press, the pulpit, the school, the screen, and the stage had sufficed to infuse millions of Americans with the mob fear and mob hate that are the warp and woof of war madness. The carefully planned, brilliantly executed scheme of advertising preparedness, patriotism, and war had left a great section of the American people incapable of reasoning or understanding. On April 2, there were millions who had been worried, harried, and emotionalized through the successive stages of fear, resentfulness, bitterness, hatred, and frenzy until they were sufficiently ferocious to be willing to use the knife.

The plutocrats won immunity, power, and wealth measured in seven figures. They won more. First, they secured the big Navy and Army for which they had worked so faithfully, an Army to menace neighbors and to preserve peace at home during the deluge of misery that will follow the bursting cloud of war values and war prices; a Navy to guard the hundreds of millions that they have invested in "undeveloped" countries; and seven billions of dollars to be spent at once — much of it on war contracts.

Again, they had won conscription — the right to send a million Americans into the trenches of France to fight for the poor Belgians, for Lombard Street, Wall Street, and King George of England. They had established a spirit that permitted children to go back into factories from which years of incessant labor had rescued them; "women to take men's jobs at a fraction of the wage, and the standard surrounding the labor of men to be lowered."

\* \* \* \* \*

They aroused the people, agitating and irritating them until they were frantic, repeating, meanwhile, the blatant lie that the real enemy of American liberty lived in Berlin.

Then they stung them with high prices, filched their liberty, plunged them into war, took a million of their brothers and husbands and sons to wage a war of aggression on the battle-fields of king-ridden Europe, and because nothing happened at once, they believed they had won. They had won — victory and death.

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[Issue of Sept. 7, 1917]

TO THE ABATTOIR — VIA FIFTH AVENUE.

“ March, march, march!  
 Making sounds as they tread,  
 Ho! ho! how they step  
 Going down to the dead!  
 Every stride, every tramp,  
 Every footfall nearer;  
 And dim each lamp  
 As the dark grows drearer;  
 But ho! how they march,  
 Making sounds as they tread  
 Going down to the dead!

March, march, march!  
 Making sounds as they tread  
 Ho! how they step  
 Going down to the dead!  
 How they whirl, how they trip,  
 How they smile, how they dally,  
 How blithesomely they skip,  
 Going down into the valley;  
 Ho! ho! how they march,  
 Making sounds as they tread  
 Ho! how they skip,  
 Going down to the dead!

March, march, march!  
 Earth groans as they tread!  
 Each carries a skull,  
 Going down to the dead!  
 Every foot is a bolder,  
 'Tis a skeleton's tramp,  
 With a skull on his shoulder!  
 Ho! ho! hew he steps,  
 With a high-tossing head,  
 That clay-covered bone,  
 Going down to the dead!"

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[Issue of Sept. 15, 1917.]

#### A COMPARISON.

[By Grace Anderson.]

Just as sincere and as much to be pitied are the mothers of today, whom we see giving their sons to be butchered in the present war. And to what end is the sacrifice made? We are told that the god democracy demands this and we comply.

As the war goes on, and neither side seems any nearer to victory, the people of the warring nations are reflecting on the utter futility of it all.

As long as the capitalists can blind the people to the real issue, just so long will the war continue. By every means in their power; by pressure brought to bear in certain quarters; by swift punishment of speakers against war; by causing the people to become partners in war finance through the purchase of Liberty bonds; even by psychological words launched at the right moment, as, "Save democracy," "Do your bit," etc., are the financiers hiding from the people the true cause for the prolongation of the war.

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[Issue of Sept. 19, 1917.]

When the casualty lists come home, where many such sons or brothers or husbands will come no more, the degree and quality of diversion offered to the public mind by the thea-

ters of the country will become a matter for wise and purposeful stimulation and direction.—Editorial of the Times.  
Camouflage for thought conscription.

If the people worry over the woes of war, they may rise and end it. Accordingly, give them light amusement—anything—to turn their minds from the toil and hell they pay for war.

Even this will not avail forever.

\* \* \* \* \*

Perhaps the reason the term is being stopped is that a perpetual reminder of their compulsory drafting might cause a growing irritation.

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[Issue of Oct. 7, 1917.]

## HAS A WORKINGMAN A COUNTRY TO DEFEND?

### WHY THE ALLIES FIGHT.

It is very plain that this war is not being waged for democracy but for groups of capitalists who desire the economic control of the world, and whose shouts for democracy are but efforts to blind the people to make them fight the battles of capitalism.

40. The above-mentioned articles were not alone considered by respondent, but other matter contained in various issues of said publication, but not specifically mentioned above, were also taken into consideration in determining the mailable character of the matter being sent through the mails in said publication.

He further says that in his judgment, in their entirety, the issues so presented and considered evince a purpose and intent on the part of the relator to wilfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, to promote the success of its enemies during the war, and wilfully cause and attempt to cause insubordination, disloyalty, mutiny, and refusal of duty in the military or naval forces of the United States, and to wilfully obstruct the recruiting or enlistment service of the United States to the injury of the service and of the United States.

That such matter is in violation of section 3, Title I, and sections 1 and 2, Title XII, of the espionage act, and is non-mailable.

Respondent further says that for these reasons the said publication was not "a newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class, and the respondent so decided after due and thorough consideration of the matters and things stated therein.

41. Answering further, he says that the application of the relator for the reentry of the New York Call to the second-class mailing privilege, filed on January 9, 1919, was in like manner considered by the Third Assistant Postmaster General, and upon review by this respondent. A complete file of the issues of said publication from the said date of the withdrawal of the second-class mailing privilege, as aforesaid, to the date of filing of said application, during which period the state of war between the United States and Germany and the conditions herein described incident thereto continued to exist. A few excerpts by date and title from some of the last-named issues of said publication appear elsewhere herein, the issues themselves being hereby tendered to the court, together with the entire file for said period.

42. The above-mentioned articles were not alone considered by the respondent, but other matter contained in various issues of said publication between said dates, but not specifically mentioned above, were also taken into consideration in determining the mailable character of matter sent through the mails during said period in said publication.

He further says that in his judgment, in their entirety, the issues so presented and considered evince a purpose and intent on the part of the relator to continue in the policy pursued by it before the second-class mailing privilege was withdrawn to willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, to promote the success of its enemies during the war, and willfully cause and attempt to cause insubordination, disloyalty, mutiny, and refusal of duty in the military or naval forces of the United States, and to willfully obstruct the recruiting or enlistment service of the United States to the injury of the service and of the United States.

That such matter is in violation of section 3, Title I, and sections 1 and 2 of Title XII of the espionage act and is non-mailable.

The respondent further says for these reasons the said publication was not a "newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class during said period, and the respondent so decided after due and thorough consideration of the matters and things stated herein.

43. He further says that he has also examined the files of the relator's publication, the New York Call, since January 9, 1919, and finds that it has in no way changed its policy and continues to print and publish the same character of matter with the intent to produce the same effect as characterized the publication at the time the second-class mailing privilege was withdrawn. In this connection attention is called to the quotation in the thirtieth section of the petition of the statement made by the editor of the Call to the Third Assistant Postmaster General and his assistant, Mr. Wood, on June 20, 1919, as follows: "We have this to say, Mr. Wood, the Call has not changed its policy one bit since it was barred from the mails, and is not going to change." The respondent says that for these reasons the publication is not a "newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class, and is not now entitled to the second-class mailing privilege.

44. Answering further, the respondent says that, as is to this honorable court well known, section 211 of the Criminal Code, act of March 4, 1911 (36 Stat. 1339), makes nonmailable "matter of a character tending to incite arson, murder, or assassination," and forbids the same to be conveyed in the mails or delivered from any post office or by any letter carrier; and, as is also well known to this honorable court, section 2 of Title XII of the said espionage act provides that "every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book or other publication, matter or thing of any kind containing matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States is hereby declared to be nonmailable."

45. This respondent avers that from matter received at the Post Office Département from various sections of the United States

and from other countries throughout the world, he finds that there exists an organized propaganda which seeks to unite all of the radical elements in a revolutionary movement, the object of which is the overthrow of the Government of the United States by force and violence and the establishment of "the dictatorship of the proletariat." The doctrines of the Bolsheviks, Communists, Anarchists and kindred organizations are being spread broadcast throughout the United States by agents of revolutionary Socialism co-operating to bring about the accomplishment of this purpose; that by this means sentiment is being created and forces recruited for the purpose of precipitating such a revolution in the Government of the United States through force and violence and by unlawful and unconstitutional means; that among the means employed in attempting to accomplish the purpose stated multiplicity of strikes in various lines of industry are being advocated and fomented by such revolutionary agents; that the plan of their operation embraces limitation of production, sabotage, arson, murder and assassination, in order to ultimately bring about in this country a condition similar to that existing in Russia at the time of the recent revolution in that country; that this movement has become international in its scope, and the elements composing said movement are in accord with the radical, revolutionary movement which had its origin in European countries years ago and which has manifested itself in various revolutionary outbreaks in different parts of the world in the past few years; that the ultimate object of this movement is to create an international revolutionary party to overturn the governments of the entire world and establish an international communist government for the world; that the publications forming this propaganda in many cases subtly guard their utterances, but that they are nevertheless united in publishing the same character of matter, and their readers readily understand the meaning of their utterance and the character of the activities they indorse, whether such indorsement be expressed or implied. Through such means these publications are daily enabled to give aid and encouragement, advice and assistance to those who seek to destroy our present form of government by force and violence. Among the publications which has been for several years engaged in such revolutionary propaganda is that of the relator, the New York Call.

46. By representations and complaints from sundry good and loyal citizens of the United States, and from personal review and

consideration of the issues of the said relator's publication from the date of the declaration of war to the present time, it seemed to this respondent, in the exercise of his judgment and discretion and in obedience to the duty on him reposed, as well by section 211 of the Criminal Code as amended by sections 1 and 2 of Title XII of said espionage law, that the provisions of said laws have been systematically and continually violated by the relator's publication. Therefore he directed the rejection of the application filed January 9, 1919, by the relator for the re-entry of the said New York Call to the second class mailing privilege.

Among the matters and things thus considered by the respondent himself on review and as he is advised and believes and therefore avers by the Third Assistant Postmaster General in the consideration of said application for re-entry to the second-class mailing privilege, was a file of relator's publication from the beginning of the war to the filing of the petition in this case, in which occurred sundry editorials and other statements of the relator's publications. The following are a few excerpts by date and title from several of the issues of the aforesaid publication, the issues themselves being hereby tendered, together with the entire file, to the court:

[Issue of Aug. 8, 1918.]

#### THE AMERICAN IDEAL.

Of course, the doctor quotes the Declaration of Independence, but gives it this little twist: "All men are \* \* \* endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit (not the gift) of happiness." I wonder what does our P. H. D. understand by "life" and "liberty"? Is it "life" to be an economic slave? Is it "liberty" to have to spend one's life in a continual grind to just be able to keep body and soul together and to always face the specter of unemployment? As for the "pursuit of happiness," it is because the L. W. W. went in pursuit of happiness that they are now on trial. It was because the miners of Ludlow went in pursuit of happiness that so many paid with their lives. The Bisbee outrage is another instance of workers going in pursuit of happiness, and the gift presented to the workers in each one of these cases was misery, suffering, and death. Is that American? Is it because the children are too young to go

in pursuit of happiness that the Supreme Court declares the child labor law unconstitutional? But notice the doctor says "The American people believe in child labor laws." Well, then, the Supreme Court was acting contrary to the belief and (presumably) wish of the American people. You bear us out in that, Doctor. We have always maintained that our judiciary did not give a continental about the beliefs, or even wishes, of the people.

Come again, Doctor, come again! You help to make simpler our task of teaching the people to go "successfully in pursuit of happiness" (not to be stopped by the bosses) and "helping less fortunate individuals to help themselves."

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[Issue of Aug. 9, 1918.]

#### THE CITY OF HORRIBLE HOUSES.

Many blocks away the homes of the rich, which are habitable even in such weather as this, were shut tight or in the hands of a caretaker. Those who live richly off the toil of the many fled to escape the discomforts of summer. And they are the champions of a system of society which devours its useful members and nourishes its parasites.

It is this capitalist system, the most wicked that the world has ever suffered from, that is upheld in a prostitute press and defended from a prostitute pulpit and platform. A system that gives the lie to the teachings of every lover of justice since the world began. A system the horrible fruits of which would stir to some pity even a Nero or a Caligula. Only a hyena in human form can look upon its hellish results unmoved, and only a defender sunk to an abysmal depth of mental degradation could lift a voice to champion it.

And it is for indicting this capitalist system, for seeking to replace it with a sane, orderly, human system; with a system that will give to all the means of living in homes worthy of those whose toil has grasped from nature those things which make life worth the living, that men and women brave enough to fight for a better day for all mankind are persecuted and imprisoned. And it is for defending this system that others are rewarded with all the comforts and luxuries of life by those who grow rich and powerful through its ghastly injustice.

[Same issue, Aug. 9, 1918.]

### DEMOCRACY.

Reactionary classes will be satisfied with political democracy over the world so long as they do not extend it to industry. This is evident from their reaction to the labor democracy of Russia. Any movement there that will crush labor ownership and control of land and industry and restore junker and capitalist ownership will be hailed with joy. Fundamentally, they do not believe in democracy at all, but events are moving fast and it is doubtful whether the giant forces released the past four years will not sweep away all obstacles to a genuine democracy in all industrial and social relations.

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[Issue of Aug. 13, 1918.]

### TIME FOR ACTION NOW IS DEBS' CALL TO PARTY AT CHICAGO CONFERENCE.

The master class of our country have done everything in their power to destroy democracy. They have suppressed our papers. They have jailed our members. They have broken up our meetings. They have persecuted us in every conceivable way.

We stand to-day stanchly as never before upon the principles of international socialism and we propose, in the face of all the opposition, all of the hatred, all of the persecution, to bear aloft our banner and to wage unceasingly the war for the emancipation of the workers of the world.

I am ready to do my little utmost now and as the days go by in the interest of the only cause on this earth worth living, fighting, and dying for.

DEBS.

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[Issue of Sept. 3, 1919.]

### THOUGH JAILED, HE SPEAKS.

Education and organization on a world scale require time and patience, energy and determination without end. Let us get to work without delay, renewing the campaign and preparing our legions for the far greater battles of the future.

We are not of the stuff that gets discouraged and beats a cowardly retreat. We are class-conscious revolutionists; we are enlisted uncompromisingly in the class struggle, and we propose to fight its battles without variableness or shadow of turning to the bitter end of capitalism or to the last hour of our lives.

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[Issue of Sept. 1, 1919.]

### LABOR DAY.

But there will also be meetings in which the speakers will tell the workers that Labor Day will never be fitly celebrated until the workers have taken possession of the world. That they can do this whenever they choose. That to put it off is to put off their chance for happiness—their chance for a real life. That patience with a system that robs them of everything that makes life worth the living is not a virtue on their part, but a vice for which both they and their children will bear sore punishment. That those who counsel them to be patient—to put off the coming of the better day—are their betrayers and not their friends. And this is true whether these counselors pose as their leaders or belong openly in the class which lives off the toil of others.

Do those who live richly off your toil put off their good day until a to-morrow that never comes? Or do they enjoy in this day and generation all the luxuries of life? Do they practice the patience that they preach to you? Look around you at the lives of those who give you this advice and get wise to the manner in which they fool you. Now is the day of your salvation if you use your brain to achieve it.

\* \* \* \* \*

This Labor Day of 1919 finds the worker rising in every portion of the globe, stretching out their hands to grasp political and industrial power. Nor yet arising in the full majesty of their organized power, but rising in ever-increasing numbers. And the day of their triumph is at hand.

O'Mighty Labor, who hath borne the world  
 Upon thy shoulders for almost countless ages,  
 When wilt thou lay the burden down?  
 As the fabled god of old doomed the giant Atlas  
 To unending twilight and o'erwhelming weight,  
 So have thy pigmy masters wrought thy shame.  
 O, thou Titanic Force, unloose thy bonds,  
 And, scaling Capital's great wall,  
 Hurl from its heights the puny gods  
 That bar thee from the Sunrise Land.

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[Issue of Sept. 5, 1919.]

### WORKERS MUST REBUILD SOCIAL ORDER.

It now becomes more than ever the immediate task of international socialism to accelerate and organize the inevitable transfer of political and industrial power from the capitalist class to the workers. The workers must recognize the economic structure of human society by eliminating the institution of the private ownership of natural wealth and of the machinery of industry, the essence of the war-breeding system of international commercial rivalry. The workers of the world must reorganize the economic structure of human society by making the natural wealth and the machinery of industry the collective property of all.

The workers of the world are already ushering in the new order of true civilization.

\* \* \* \* \*

But even in the United States the symptoms of a rebellious spirit in the ranks of working masses are rapidly multiplying. Widespread and extensive strikes for better labor conditions, the demand of the 2,000,000 railway workers to control their industry, sporadic formation of labor parties apparently, though not fundamentally, in opposition to the political parties of the possessing class, are promising indications of a definite tendency on the part of American labor to break away from its reactionary and futile leadership and to join in the great emancipating movement of the more advanced revolutionary workers of the world.

\* \* \* \* \*

We, the organized Socialists of America, declare our solidarity with the revolutionary workers of Russia in the support of the government of their Soviets, with the radical Socialists of Germany, Austria and Hungary in their efforts to establish working class rule in their countries, and with those Socialist organizations in England, France, Italy, and other countries, who, during the war as after the war, have remained true to the principles of uncompromising international socialism.

\* \* \* \* \*

The great purpose of the Socialist Party is to wrest the industries and the control of the Government of the United States from the capitalists and their retainers. It is our purpose to place industry and government in the control of the workers with hand and brain, to be administered for the benefit of the whole community.

To insure the triumph of socialism in the United States the bulk of the American workers must be strongly organized politically as Socialists, in constant, clear-cut and aggressive opposition to all parties of the possessing class. They must be strongly organized in the economic field on broad industrial lines, as one powerful and harmonious class organization, cooperating with the Socialist Party, and ready in cases of emergency to reinforce the political demands of the working class by industrial action.

To win the American workers from their ineffective and demoralizing leadership, to educate them to an enlightened understanding of their own class interests, and to train and assist them to organize politically and industrially on class lines, in order to effect their emancipation, that is the supreme task confronting the Socialist Party of America.

To this great task, without deviation or compromise, we pledge all our energies and resources. For its accomplishments we call for the support and cooperation of the workers of America and of all other persons desirous of ending the insane rule of capitalism before it has had the opportunity to precipitate humanity into another cataclysm of blood and ruin.

Long live the international Socialist revolution, the only hope of the suffering world!

[Issue Sept. 16, 1917.]

[Call Magazine.]

## A SONG OF DEMOCRACY.

Lives there a workingman so dense  
 Who has not yet the common sense  
 To see that flags and forms of state  
 Of which the masters proudly prate,  
 Are but the stock in trade of those  
 Who fatten on the people's woes,  
 And with such symbols still divide  
 The folks whose backs they want to ride?

\*   \*   \*   \*   \*   \*

When will the workers of all lands  
 Throw off their immemorial bands?  
 The lying loyalties they cheer?  
 Their slave idolatries of fear?  
 And stand beneath one common sky,  
 As one to live, as one to die;  
 To own no flag, no state, no mood,  
 Except the workers' brotherhood?

[Issue Sept. 21, 1917.]

[Reprint of an item from the Milwaukee Leader.]

If the advice of the Socialists had been taken and acted upon, the something-for-nothing system — which is the cause of war — would have been abolished and we would not be at war.

[Issue of Aug. 13, 1918.]

## SOVIETS' BILL OF RIGHTS.

[Printed in extra heavy black-face type.]

Abolition of property in land, declaration of the entire soil to be national property, and the distribution of it to the workmen without purchase money, upon the principle of equality in utilizing it.

Declaration as national property of all forests, treasures of the earth and waters of general public utility, and all the

belongings, whether animals or things, of the model farms and agricultural undertakings.

Introduction of a law for the control of workmen and for the nationalization of a number of branches of industry.

Nationalization of the banks, which heretofore were one of the mightiest instruments for the spoliation of society by capital.

Repudiation of the loans which were contracted by the Czar's Government upon the account of the Russian people.

Arming of the laborers and peasants and disarming of the propertied classes.

Besides all this, the introduction of a universal obligation to work, for the purpose of eliminating the parasitic strata of society, is planned.

To fight everywhere and without sparing their strength for the complete power of the working classes, and to stamp out all attempts to restore the dominion of the despoilers and oppressors.

To assist with all their strength in overcoming the depression caused by the war and the opposition of the bourgeoisie, and to cooperate in the bringing about as speedy a recovery as possible of production in all branches of economy.

To subordinate their personal and group interests to the interests of all the working people of Russia and the whole world.

To defend the republic of the Soviets, the only Socialist bulwark in the capitalistic world, from the attacks of international imperialism without sparing their own strength and even their own lives.

To keep in mind always and everywhere the sacred duty of liberating labor from the domination of capital, and to strive for the establishment of a world-embracing fraternal league of working people.

[In regular size type.]

In proclaiming these rights and duties the Russian Socialist Republic of the Soviets calls upon the working classes of the entire world to accomplish their task to the very end, and write upon their flags the old battle cry of the working people.

[In black-face type.]

Proletarians of all lands unite.

Long live the Socialist world revolution.

[Issue of Sept. 14, 1918.]

## LETTER TO CALL.

EDITOR OF THE CALL:

DEAR COMRADE: The Call has in its editorials continuously supported the Bolshevist government, needless to say from a sincere conviction, that the Soviet government championed the cause of the working class in Russia and elsewhere.

The Call has, with few exceptions, published contributions supporting the Bolsheviks; it has undoubtedly never suppressed contrary opinions, but those in our party opposing bolshevism happened to remain silent.

You no doubt will, in the interest of fair play and a free party press be good enough to publish a few articles on the subject differing from the views of the majority.

Fraternally, yours,

BELA LOW.

[Issue of Sept. 30, 1917.]

[Call Sunday Magazine.]

WAIT.

Wait till these ragged vagabonds,  
 Now swarming o'er the land,  
 Are clothed and fed,  
 And drilled and led,  
 And feel the guiding hand  
 Of some clear-headed leader  
 Bred upon the battlefield,  
 Some new Napoleon of the West,  
 Whose master hand can wield  
 The sword, the scepter, too, as well —  
 Some daring son of Mars —  
 Some hero of a hundred fights  
 Who laughs at death and scars —  
 Wait till his marching myriads come,  
 Poor vagabonds no more,  
 But every one a soldier trained —  
 A dog of death and gore.

[Same issue.]

## A VOICE FROM BEDLAM.

Take the British and American Governments, for example. Do they not say that their future security can not rest upon international treaties alone? Do they not say that Germany disregards international treaties, and looks upon them as "scraps of paper?" They do. And Germany retorts the very same thing on them. And then they both shriek "liar" at each other.

And our future, and the British future? Do we not say that it must be founded on might and strength? Of course we do. "Speak softly and carry a big stick." Every nation says that, with the possible exception of Russia, and she is discovering that she also needs might and strength to carry her through — for the present, at any rate.

Germany must have "ample war indemnities." Well, how about the others? About Britain and France, let us say, for we have not gone in for indemnities yet, though we may later on, whether there is anything left to indemnify with or not. Does not Great Britain say she wants indemnities? Take it from Lloyd George, "When they have learned to say reparation, restoration, restitution." If they don't say it, and make it, the political and economic development of the opponents of Germany will be put back for decades.

But suppose the political and economic development of Germany is retarded by decades. Well, "what the hell do they care?" And Germany cares just about as much for theirs.

If this is all like "talk from a padded cell," let it be remembered that they all indulge in it and they are all in the same lunatic establishment — capitalism.

And not one of them is going to get the things they all declare they must get. Their future will not be founded on might and strength; they will get no war indemnities, ample or otherwise, and their political and economic development will not be affected by any of these things.

What they are going to get is social revolution and Socialism. And when they get it they will "be clothed and in their right mind," and not before.

But this "padded cell" talk is nothing more than the jabbering of capitalist lunatics berating each other, and each using exactly the same jabber to do their scolding with.

[Same issue, Aug. 2, 1917.]

# CAPITALISM.

[Editorial.]

## A WARNING AND FAREWELL.

O Master, Lords and rulers in all lands, like the gladiators of old, salute Socialism, for you are about to die. And we shall assist you to commit your hari-kari.

For the last time, ask your lunatic questions about what Socialism proposes to do. About the destruction of "society"—your society—and "civilization"—your civilization. You, the destroyer!

Inquire with horror-stricken voices whether we intend a bloody revolution, and we answer that you are providing both the blood and the revolution. Consider now your work in Europe.

Ask if we intend to destroy property. Will there be any left to destroy after you get through?

Tell us that "it will never come in our time," and then set your wisest prophets predicting what the face of Europe will look like five years from now. It matters not about America. As goes Europe, so goes the world.

Trot out your idiotic sneers about the "catastrophe theory" of Socialism, and then reflect that you are providing the catastrophe. And it will be one for you, if we can make it so. Tell us something now about the "slow and painful process of evolution," just to pacify and refute us.

Do you mean the destruction of religion? Has religion—your religion—saved you from starting universal murder?

Do we stand for confiscation? Surely, we stand for it as much as you do now. You mean confiscation, but he who confiscates last confiscates best and that will be the Socialists, after you have spent yourselves in trying to consummate your robbery.

How about preserving the home? Will there be any left to preserve in Europe after you get through? Why not ask us about building up new homes that you can not destroy?

What about "anarchy" now? How about telling us—you, the preservers of law and order—that Socialism and what you called "anarchy" were one and the same thing?

What about capitalism and "anarchy?" Where is the difference?

"Socialism is the end of all things," said one of your wisest advocates. Surely. And you and your system are the things it will end.

Do we Socialists believe in dividing up? What is your belief except that you can "divide up" the world? We don't believe you can, and we will show you. When this cruel war is over, you'll be over and done with, too, if we can make it so.

Senile, doddering lunatics, we well knew that you would set the world ablaze. And we shall see to it that your insane system perishes in the flames you have kindled.

You can't kill the working class, the world's proletariat. They are immortal. But they can kill your system, and they will. There will be plenty left to do it, even if they bleed one another white in fighting your battles first.

This is but a foreword to you. Our time is not yet arrived for talking, and when it is we shall do something more than talk.

Your only answer to us now is murder. You began with our Comrade Jaures. He was the first, but he will not be the last. Thousands of us may go down, but there will be enough, and more than enough, left to attend to your accursed unsocial system after the first spasm is over.

We see the city streets crowded with drunken, blood-crazed "patriots" yelling for war. We hear their frenzied shouts of "On to Berlin!"—or Paris or St. Petersburg, or Vienna, as the case may be. We see the Socialist peace advocates smashed down in the streets like wild beasts for even being suspected of being out of sympathy with their madness and blood lust.

And we remember history. Those fateful days of 1870, when the same mob in Paris yelled: "On to Berlin!" and two months later were shrieking: "We have been betrayed! Let us overthrow this Government!" And they did.

And we bide our time, remembering the repetitions of history. Remembering that those you have driven to madness will be the first to turn on and rend you when war has finished their education. For that is what you are doing. Educating them for your own destruction.

You started out to pacify labor unrest by bleeding labor on the battlefield. At the last, labor, the aroused and immortal giant labor, will bleed you. And you are preparing capitalism for the knife.

We are holding back Italy from the hectacomb, but not to save your system; rather to assure its future destruction.

Yes, we see the heaps of slain, the millions of maimed and crippled, the desolate widows and the fatherless children, the hunger and the pestilence, the blazing fields and the devastated cities. But our period of mourning has passed. The inevitable has happened, and now we are watching while working and planning how to destroy your system, the curse of the world, beyond possibility of revival. We knew something like this was due. We didn't overlook it, though some of your alleged wisest insisted it was impossible even after it had started. Your difficulty is our opportunity, and we shall strain every nerve to make it so.

Lock up or slay millions of our leaders or spokesmen. Imprison, suppress, or kill us by thousands. Take all the "measures for safety" you please. Your day of judgment is at hand, none the less. Socialism is the immortal avenger of humanity under your system. And we bide our time.

The world of the future, in which you have no place will need no banker and financial spiders, no diplomatic liars, no military kaisers. Humanity can not only do without them, but will soon recognize them as its deadliest curse.

O masters, lords, and rulers in all lands! You have taken a chance — you had to — and we, the united working class of the world shall see that it is your last. You have placed your fortunes on a cast and now you shall stand the hazard of the die.

Make ready for the death cry: "Hail Socialism!" we, who are about to die salute you!

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[Issue of Jan. 5, 1919.]

[The Call Magazine.]

ARTICLE BY SAMUEL SCHMALHAUSEN.

Come, little brother, be not downcast. The swelling chorus of the Brotherhood of Sham fills the discerning heart with a

richer music than heathen man is attuned to. Let thy wicked heart be purged and thy conscience be made whole, and thy face be uplifted, for the merry yuletide is here. Truth (as witness the American newspapers reports on Russia). Justice (as witness the punishments meted out by gentle Christian judges to American revolutionary Socialists). Charity (as witness the reign of profiteering in our God-fearing land) — these three (truth, justice, charity) dwell side by side in our land, the healing virtues of a civilization founded on force and fraud, and rescued from a bloody oblivion by the sensitive reverence for their betters, by the superstitious acquiescence in the tyrannical rule of a mighty feudalism on the part of the masses. The war of the nations is well-nigh over; the war of the classes has well-nigh begun. Long live the revolution! Down with the Christian Brotherhood of Sham!"

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[Issue of Sept. 23, 1919.]

#### THE SLAVE PENS OF THE STEEL MASTERS.

The steel strike begins under the most sinister auspices of any struggle so far since the diplomats brought "peace" to the world. The Pennsylvania "Cossacks" are being concentrated in the strike zone. The strikers claim that many of the plants are being transformed into military forts. Citizens are being sworn in and war veterans are being mobilized for the struggle. The fundamental class antagonism, ever present in capitalist society, assumes the aspect of actual war, and that is what it is. The world recognizes that "in the test that is to come rioting and bloodshed may be expected." It might have added that the armed mercenaries of the steel barons will do what they can to provoke bloodshed.

[Issue of Dec. 1, 1918.]

## DYING FOR UTOPIA.

Isn't it horrible to hear  
 How those awful socialists  
 Have let a hundred people  
 Get killed  
 In starting their government?  
 They must have been  
 Quite hardened by the war,  
 And after they have seen  
 Millions of casualties  
 Made in trying to settle  
 Whether the world should be  
 Made safe  
 For a capitalist kaiser  
 Or a capitalist democracy,  
 They recklessly thought  
 That making the world safe  
 For socialism  
 At the extra cost  
 Of a hundred lives  
 Was cheap at the price.  
 And they went ahead  
 And started their government,  
 In spite of the danger,  
 With shocking disregard  
 Of the sacredness of life.  
 Why, the number of people killed  
 Was almost as many  
 As were killed at Ludlow  
 To maintain the government  
 Of John D. Rockefeller;  
 And about as many as died  
 That time in Calumet  
 When the hall  
 Of the striking miners  
 Was burned in the midst  
 Of a Christmas celebration  
 And a hundred women and children  
 Perished in flame;

About a third as many  
As the girls who were cremated  
In the Triangle shirt waist fire,  
When the management  
Disregarded the fire laws;  
And about a sixth as many  
As the miners who perished  
At Cherry Hill  
In the coal mine disaster,  
From criminal negligence  
And disregard of law.  
It seems as if  
To set up government,  
Or to maintain government,  
Or even to disregard  
The laws of government  
Or anything else  
That has to do with government,  
Costs heavily  
In human life.  
And maybe those socialists  
Thought their government  
Had the same privilege.  
But they should have remembered  
The folks that died  
In our country  
Were dying for something  
Solid and real—  
Real profits  
And real money  
And a real democracy  
That they could look at  
And see all around them,  
And not just for  
A dream  
Of a world that might be.

[Issue of Aug. 21, 1919.]

## INDIANA.

## ELWOOD SOCIALISTS CONDEMN PARTY DISRUPTERS.

Resolutions passed by local, Elwood, Ind., at its regular meeting, Sunday, August 7, 1919:

Whereas there prevails generally throughout the world at this time conditions exceedingly detrimental to the physical, mental, and moral well-being of humanity; and

Whereas a great part of the human family has been plunged into these deplorable conditions by the avarice and greed of the ruling class and their accomplices, the profiteers and exploiters of all nations; and

Whereas the ruling classes of all lands have always resorted to any and all means, however foul, to accomplish their aims in ruling over and robbing the producing class of society, both in times of peace and of war; and

Whereas we realize that the exploiters and plunderers of the people's heritage long since formed themselves into a solid phalanx as a class, not only in America, but in all so-called civilized countries, and, now that the great war is over, they are forming themselves into a great international unit, which is to defeat the ends of justice and maintain by means of falsehood and violence the same barbaric power and perpetuate the same rule over physical, mental, and moral affairs of the human race; and

Whereas we hold that such a class, which has successfully deceived the human family for centuries, plundered, robbed, and destroyed the fruits of labor, and through its own class-made laws and perjured testimony imprisoned those who speak the truth, constitutes a most dangerous class in any country, one whose crimes can be punished and whose plans for the future can be combatted only by the united industrial, political, and moral power of all those who suffer under their rule, now, therefore, be it

*Resolved*, That we of Local Elwood, Socialist Party, in view of the momentous issues at hand, go on record as being uncompromisingly opposed to any movement to divide the power of the working class in its single purpose of abolishing the system of exploitation and unearned incomes, by any means at hand which may be forced on them by the ruling class in its unfair and violent oppression; and be it

*Resolved*, That we oppose any division in the ranks of the working class, whether in the Socialist Party or any other labor organization, especially at this time when all the powers of hell are pitted against us; and be it further

*Resolved*, That we demand that all delegates to the national convention be instructed to firmly abide by the decision of the majority of the convention, to be submitted and ratified or rejected by the majority of the membership in referendum vote.

We plead with you, comrades, to demand that your delegates to the national convention be instructed to cause no division in the labor movement which would be supremely unfortunate at this time and the severest blow to our fundamental aim to eliminate all exploitation and unearned incomes from the face of the earth. Only our rulers and exploiters can gain anything by a split in the ranks of the Socialist Party. It is up to us to see that any such tendency is immediately and effectually overcome.

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[Issue of Aug. 20, 1919.]

TO THE TOILING MASSES OF AMERICA, FRANCE, BRITAIN, ITALY, AND JAPAN: AN APPEAL OF THE RUSSIAN WORKMEN AND PEASANTS' SOVIET GOVERNMENT.

#### APPEAL TO WORLD'S WORKERS.

A pamphlet signed with the names of Lenine, Trotzky, and Tchitcherin was addressed "To the toiling masses of America, France, Britain, Italy, and Japan: An appeal of the Russian workmen and peasant's Soviet government."

It is as follows:

"The Anglo-French bandits who seized the Murman Railway are already executing Soviet railway workers. By order of your government, allied troops are cutting off the bread supplies from the Russian people in order that the workers and peasants be compelled to put their necks once more in the yoke of the Paris and London stock exchanges.

"Your governments have sworn they would demolish Russia because our workers have tried to overthrow the yoke of capitalism.

"You, the sons of toilers, who rose in a body when the British textile workers wanted to aid the America slave owners, are now becoming the executioners of the Russian revolution.

"Such is the degradation to which your rulers would reduce you."

Threats are made in the pamphlet of "two blows for every one against the Soviet." It concludes:

"Long live the solidarity of the workers of the world: Long live the solidarity of the working people of America, France, England, Italy, and Japan with the Russian workers: Down with the bandits of international imperialism. Long live the international revolution."

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[Issue of Aug. 22, 1919.]

#### GERMANY.

[Extracts from a manifesto issued by the Women's Socialist International.]

It is both the honor and duty of Socialist women of every country to march, as advance guards for world revolution and world peace. Imperial peace attained by the sword and disloyal peace through diplomatic means are both unacceptable. The only real peace possible is one under the protection of revolutionary socialism.

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[Issue of Aug. 31, 1919.]

#### OREGON DELEGATES TO CHICAGO.

*Resolved*, That said delegates are further instructed to take any and all action that may be necessary to reorganize the National Socialist Party into a revolutionary Socialist or communist organization; and be it further

*Resolved*, That, in case it can be found impossible to so reorganize the said National Socialist Party, then the delegates are hereby further instructed to take such steps as may be found necessary to organize a revolutionary Socialist party, whose sole aim shall be the overthrow of the capitalistic system by the establishment of the dictatorship of the proletariat.

[Issue of Dec. 1, 1919.]

# THE BOOKMARK.

REVIEW OF A BOOK "LENIN: THE MAN AND HIS WORK."

[By Albert Rhys Williams.]

The radical and enlightened world has come to regard Lenin as the master mind of revolutionary thought and deed of the twentieth century — because he has succeeded in revolutionizing Russia in accordance with the needs and requirements of Russians, succeeded against every odd and defeat.

We not only associate Lenin with social revolution, but with successful revolution, and because of the latter attribute he achieves a stature in our mind before which most all other contemporary revolutionists are dwarfs. Yet, they are not dwarfs. They could, and would, were they in Lenin's place, accomplish the same successes and work toward the same heroic and humanizing ends.

In his address to the jury that convicted him in 1918 Debs said, "Revolutions have a habit of succeeding when the time is ripe for them." When the time is ripe Lenin appears, no matter whether he comes from the university, as the Soviet premier came, or from a locomotive engine, as Debs would come.

\* \* \* \* \*

One day Lenin said to Col. Robins: "We may be overthrown in Russia by the backwardness of the Russian people, or by a foreign power, but the idea in the Russian revolution will break and wreck every political social control in the world. Our method of social control must dominate the future. Political social control will die. The Russian revolution will kill it."

[Issue of Aug. 12, 1919.]

[Special to the Call.]

UKRANIAN SOCIALIST IN JERSEY JAIL BECAUSE HE SIDED  
WITH BOLSHEVIKI — ALBERT SEMICK, WHO RAN AWAY  
FROM CZARDOM TO "LAND OF FREE," FINDS OUT HIS  
MISTAKE WHEN HE TALKS OF SOVIET.

He did not know, until recently, when he defended the Bolsheviks to his anti-Bolshevik friends from the homeland and attacked the Russian Orthodox Church, that such things were forbidden in New Jersey, under severe penalties, according to the sedition law of the State, which interprets such favorable comments as an attempt "to incite to hostility and opposition to the Government of the United States and the State of New Jersey." The measure was passed during the war, ostensibly as a war measure. The war is over, but the bill is on the books and Semick is in jail.

\* \* \* \* \*

After he had bought the communist manifesto, Why Women Should Have Political Rights, and Economy and American Democracy, and other booklets, he met some ancient enemies of his, Ukrainians whom he had known many years ago, and with whom he got into an argument.

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[Issue of Aug. 6, 1919.]

THOUGH JAILED, HE SPEAKS.

DEB'S DAILY MESSAGE.

The Socialist Party, organized by the workers themselves, truly typifies their class, and is committed in every atom of its being and every line of its platform and policy to their industrial emancipation. It stands fearlessly and uncompromisingly for the overthrow of the labor-robbing, war-breeding, and crime-inciting capitalist system, and for the establishment of an industrial democracy in which the collective workers shall be in control of industry, own their own tools, and take to themselves the entire product of their labor.

[Issue of Aug. 10, 1919.]

[The Call Magazine.]

A LETTER TO DEBS AND SOME HISTORY (ADDRESSED TO HIM  
AT MOUNDSVILLE PRISON, MOUNDSVILLE, W. VA.).

As you mentioned some little time ago, the Scriptures relate how the doors of the prison which contained Paul were opened by an earthquake. History also tells us how Kentish rebels in the great peasant revolt of 1381 in England, released from the Maidstone prison the noble priest and leader of the peasants, John Ball, who preached from the text, "When Adam delved and Eve span, who was then a gentleman?"

The revolutions in France, in Russia, in Germany, in Austria, and in Hungary opened the prison doors in those countries. Who can now say in what manner or by whom the gates of your prison shall be opened?

\* \* \* \* \*

When Stolypin, in 1907, imprisoned many of the members of the dissolved first Duma, and also dissolved the second Duma (an act which he sought to justify on the ground that the autocrat could alter or withdraw what he had originally granted), and when he had filled all the dungeons throughout Russia with thousands upon thousands of the noblest men and women, and had sentenced thousands of others to a living death in Siberia, also causing many others to be executed, he believed that he had rendered the revolution its deathblow, and that Czarism and the traditional absolutism were again firmly established. But to-day Lenin, free from any affectation or triviality, but determined, is at the head of a Soviet Cabinet in Russia — without question the most cultured cabinet in all history. And the idea has caught on — Soviets in Hungary, Bavaria, Besarabia, Saxony — everywhere.

We are indeed proud to have you as our reader. With glad hearts we remember the words you uttered as you stood in the doorway of the penitentiary: "I enter the prison door a flaming revolutionist, my head unbent, my spirit untamed, my soul unconquered."

You are now in prison, but with the knowledge that hundreds of thousands, nay, millions, of the people who toil and

suffer in mine, mill, field, forest, and factory, on land and sea have heard your inspired message, know you and love you. They will always fight for you to the last and will heroically carry on the battle in that cause to which you have dedicated your life. Happily, dear Gene, the world has at last arrived at that state where it can easily discern the dispersal of the clouds which for so long obscured the sun of liberty. As you entered the gate of your prison you were gazing at the rising sun. The dream of the centuries has at last come true. The world revolution is at hand. The masses are at last awakening from their long slumber. In the words of Whittier —

“The nations lift their right hands up, and swear  
Their oath of freedom.”

The hour has struck the world over, and when the object of the age-long struggle shall have been attained, whose memory will humanity love and cherish more than that of Gene Debs?

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[Issue of Nov. 22, 1918.]

[Letter to Call.]

### THE RED FLAG.

[To the tune, Maryland, My Maryland.]

The People's flag is deepest red;  
It shrouded oft our martyred dead;  
And ere their limbs grew stiff and cold  
Their heart's blood dyed its every fold.

### Chorus:

Then raise the scarlet standard high!  
Within its shade we'll live and die.  
Though cowards flinch and traitors sneer,  
We'll keep the Red Flag flying here.

Look round! The Frenchman loves its blaze;  
The sturdy German chants its praise;  
In Russia brave its hymns are sung;  
America swells the surging throng.

It well recalls the triumphs past  
 It gives the hope of peace at last;  
 The banner bright, the symbol plain  
 Of human right, of human gain.

With heads uncovered, swear we here  
 To bear it onward with a cheer,  
 Held high aloft above the fray,  
 The emblem of a new-born day.

\* \* \* \* \*

If some one will write something better, let him do so without delay, for there will be ample need for many folk songs in the revolutionary spirit. In the meantime I suggest that Socialists clip the above, take it with them to Socialist meetings and make the echoes ring with its mighty melody, so that it can be heard even by Mayor Hylan down in Tammany Hall.

ELLIS O. JONES.

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[Issue of Aug. 15, 1919.]

#### EAST SIDE SOCIALISTS HOLD MEETING TO-NIGHT.

There will be a mass meeting to-night at the square at Tenth Street and Second Avenue under the direction of the assembly district's Socialist Party organization.

The speakers, Louis Waldman, Abraham Beckerman and Alexander Kahn, will speak on "Bolshevism in America."

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[Issue of Aug. 17, 1919.]

#### RUSSIA — LENIN'S VIEWS ON RECENT EVENTS.

A recent number of the Volksrecht quotes Der Freie Arbiter, a Vienna revolutionary Socialist organ, in which Lenin's views on recent events are summarized thus:

"Faced with the question as to what form of organization to select for the revolutionary masses, we remembered the Soviets of 1905 and decided to reintroduce them as the most suitable means of uniting the proletarian masses in their fight against their oppressors.

“ THE SOVIET FORM.

“ Prior to the German revolution we maintained that the Soviets were the best organizations for Russia, but at that time we were unable to say whether they would also prove most adaptable for the western countries. Events were destined to solve this question. The Soviets are gaining greater and greater popularity in the West, and the struggle for them is not merely confined to Europe but has likewise spread to America. Soviets are being formed everywhere, and it is only a question of time till they become all-powerful.

“ The daily routine of government and the unavoidable duties of reconstruction are apt to absorb our attention and force us to forget the world revolution, which is the principal matter in hand. Only by contemplating the work and mission of the Soviets on a world basis can we find our way amid the details of their internal workings and be able to adjust them at the right moment.”

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[Issue of Aug. 18, 1919.]

SOLDIERS DESERTED ITALIAN BOURGEOISE IN GENERAL STRIKE.

“ Please ask all American comrades to let us know what they are doing,” he continued. “ We heard rumors that there was to be a general strike in the United States on the Fourth of July, and we wanted to join, if it were true, and intended to be international. We have demonstrated our strength and solidarity now, and want to cooperate with all those fighting the class struggle throughout the world.”

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[Issue of Nov. 8, 1918.]

MANY CHEER ANNIVERSARY OF RUSSIAN SOVIET.

Scott Nearing roused his hearers to the highest enthusiasm of the evening when, after picturing the control which the industrial masters of America are to gain during the next few years under the domination of the Republican Party, he said:

“ WORDS RUSSIA WANTS TO HEAR

“When the American working class comes face to face with that condition, it will send to the citizens of the Russian Republic the only message they care to hear from us, and that is, that we have made the same answer to our Tories that they have made to the Tories of Russia.”

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[Issue of Nov. 11, 1918.]

SOCIALISTS REJOICE AT BIG REVOLT IN GERMANY.

But it was the portent of world events that thrilled and electrified and inspired the audience, as it showed by its prolonged cheers and stampings and shouts and applause when the German revolution was but alluded to when the prediction was made by Lee that the Soviet government, the Russian Socialist republic, would live because it had given the signal to the peoples of the world, to which they were responding, or when Ervin asserted that the working class would kill the crowned or uncrowned autocracy everywhere, even as the beast — the Kaiser's autocracy — had to die.

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[Issue of Nov. 17, 1918.]

[The Call Magazine.]

WHEN THE WORKERS OWN THE WORLD.

The right to exploit is valid to-day, but will be doomed with the uprising of the working class of the world. Russia has set the precedent and the workers will follow in their footsteps all over the world.

The “right of the proletariat” is the right to own the world, and they will own the world as soon as they will organize the might to assert its right.

[Issue of Nov. 17, 1919.]

[The Call Magazine.]

EDITORIAL COMMENT — PEACE 1918.

Oh, America! When will you, too, join the great procession? When will your workers unfurl red banners and proclaim themselves part of the free children of earth? Was the glad day of celebration, when they threw down the master's tools and knew not the master's voice, when for a few brief hours they did with their lives as they willed, prophetic of the near future, the first faint earnest of what soon is to be?

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[Issue of Nov. 18, 1918.]

SOCIALISTS DEFY RAIN TO EXULT IN REVOLT.

Charles Solomon, who held the crowd breathless as he analyzed the occurrence of the day and roused his hearers again and again to storms of applause, called attention to the difference between the amount of the blood shed in the Russian and the German revolution and said that difference was accounted for by the superior education of the Germans. He said:

"Education determines revolution.

"We here in America can determine what kind of a revolution we shall have by the amount of working class education the workers of this country shall receive."

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[Issue of Nov. 26, 1918.]

SOLDIERS AND SAILORS CAUSE RIOT AT MADISON SQUARE SOCIALIST MEETING — MOUNTED POLICE RIDE INTO BATTLING CROWD — GARDEN RINGS WITH CHEERS FOR REVOLTERS.

We pledge our support to the revolution that began in Russia in 1917 and which has since spread to Bulgaria, Austria, and now to Poland and Germany, and which the united power of the reactionary and capitalist world could not prevent from spreading to other countries. We shall

work here with equal devotion and equal fervor until the industrial republic of America takes its place among the industrially free nations of the world.

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[Issue of Jan. 1, 1919.]

[Editorial.]

### THE NEW YEAR.

For the first time in four years humanity greets a new year with the world comparatively at peace, but this peace dawns upon a world that is in large part in ruins. There are not less than 8,000,000 dead, hundreds of thousands more will die of wounds, and millions are crippled for life, while the physical stamina of the race has materially declined. Colossal debts have been piled up under which future generations will stagger, unless peoples' governments sweep around the world and cancel them. A large part of Europe has been laid waste, famine stalks in many countries, and the rest of the world will have to be rationed for some years to come. A weakened physique and short rations make millions the prey of disease. For years to come humanity will have to pay for this orgy of death and destruction.

At the same time, some ancient autocracies have gone down with a crash, their rulers are in exile, and the red banner floats over Russia and some governments of Central Europe. Other nations are shaken with the revolutionary fever, and back of the quiet talks of the diplomats in London and Paris there is the fear of the masses taking control of their governments. There is an ebb and flow among the workers and peasants that tosses the ruling statesmen between hope and fear — hope that capitalism can be saved from the wreck, fear that it is doomed.

News of what is happening still runs its course through the adroit hands of a swarm of "thought controllers." News channels are clogged with lies and manufactured "propaganda." The various nations are still isolated from each other, in the hope that the censorship will serve as a barrier against the free flow of opinions. The human mind is still conscripted in the name of "democracy."

Such is the world we face on this first day of the new year. This country still vegetates in an industrial feudalism, with the anarchs of industry, finance and trade viewing the world as a fertile place of plunder. Capitalism is being released from the ties in which it was partly enmeshed by military necessity. The profiteer is coming into his own, and is preparing for a rich era of refined skinning. Labor, still drunk with the slogans of yesterday and a few bones tossed to it to keep it quiet, is just awakening to the perils that face it, an awakening that may prove too late to be effective. Thousands of lovers of their race remain behind prison bars, while their kind walk free in the streets of Berlin and Vienna and are acclaimed by their fellows.

But the old world is still restless, and the lull in the sweep of revolution abroad may prove to be the prelude of further sweeping changes. Ere the new year passes away the peace conference may find its work done for it by the peoples whose war it was till recently said to be. If so, Europe will be safe for the millions who have gone through these terrible four years. If not, another tragedy is likely to issue from the work of the cultured gentlemen who for the moment occupy the stage.

A happy New Year to the struggling masses of all countries, all races and all tongues. Our wish is a hope that the dawn of another year will find them the masters of their institutions in all countries, and that the fraternity of all peoples will have become a reality.

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[Issue of Jan. 1, 1919.]

[Editorial.]

### THE TRUTH ABOUT RUSSIA.

Despite the tremendous barrage of lying regarding Russia and the alleged instability of the Soviet government, the truth is beginning to be admitted by the enemies of Russia. Ever since the ascendancy of the Soviets to control, correspondents have assured their readers in allied countries that the fall of the Soviets and their leaders was a matter of only a few weeks. Weeks passed, and the event was post-

poned to another week, only to be repeated from week to week down to the present moment. The "wish was father to the thought," and there was nothing more substantial to those stories than this wish.

The Paris correspondent of the New York Times now admits that the Soviet government is more firmly planted in Russia than ever, and in this he is confirmed by a "French business man" and a "high official at the Russian embassy."

The French man is quoted as naively saying: "What no one here in France seems to understand is, that Bolshevism is based on a new idea — the idea of the supremacy of the under dog — just as the French revolution was based on the idea of the rights of man and democratic freedom from despots." By this idea Bolshevism has a powerful appeal to the masses, to the shiftless and ignorant, to the exploited section of humanity.

Now, it so happens that the French Revolution also represented the under dog, but that animal at that time was the nascent capitalist and trading class held down by the old feudal régime. That revolution is glorified to-day. The Russian revolution represents a new under dog, the "masses, the exploited section of humanity," and it is hated by the exploiting classes in all countries. It is true that it has its percentage of the "ignorant," also — ignorant because of lack of opportunity under the capitalist régime. But there are few of the "shiftless" to be found in the Russian revolutionary movement, or the Socialist movement anywhere else. These shiftless ones always serve as the shock troops of Tammany, of reactionary intrigue, of capitalist imperialism, just because they are the aimless dregs of society, without aims of their own.

But the truth is seeping through the high wall of censorship surrounding Russia, as this dispatch indicates. We think it the glory of the Russian revolution that it represents the disinherited, the "exploited section of humanity." We believe that it carries a message of more importance to the peoples of the world than any that could be sent to them by the ruling statesmen of any other country.

It also is a matter for rejoicing that it now is admitted by the enemies of Soviet Russia that the Russian Government is growing stronger and becoming more stable every day.

There is additional testimony to this in the numerous statements of interventionists that, if a large army is not sent this winter, the Soviet government will become so strong as to become impregnable. It is an admission that waiting for the expected fall of the Soviets is so much moonshine; that they must be overthrown and policed by foreign armies if they are to be permanently abolished. Revolutionary Russia is vindicated out of the mouths of some of her most irreconcilable enemies, though her strength owes nothing to these sinister forces that have tried everything to restore an old and hated regime.

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[Issue of Jan. 1, 1919.]

**SOCIALIST OPPORTUNITY BEGINS THIS NEW YEAR, SAYS  
JULIUS GERBER.**

A new year full of promise and expectation is coming.

The year that has passed brought to the Socialist cause its greatest success. The revolution in Germany and Austria, added to the already Socialist government in Russia, has brought Socialism to the foreground as never before.

Our comrades abroad will weather the storm, and will succeed in establishing the Socialist State, in spite of the enemies from within and without. The success of Socialism abroad has frightened the plutocrats and junkers in this country, and their aim now is to suppress Socialism and the Socialist Party. To achieve this they had to and, no doubt, will pass more oppressive laws.

Our papers have been and are barred from the mails. Free speech has practically been suspended, and, where they can't stop us from holding meetings, the power of the police is used to prevent proprietors from letting their halls to us.

Our spokesmen are arrested and prosecuted and thrown in jail.

Anti-red flag ordinances are passed and, while the red flags are flying over the castles of the defeated autocrats of the world in Petrograd, Berlin, and Vienna, one can not even wear a red tie in democratic United States of America.

But, as the autocrats of Europe could not prevent the growth of Socialism, neither will the autocrats and junkers of this country, if we, the Socialists, will but know how to conduct ourselves.

The possibilities for Socialism in this country will but begin in this new year. Before long thousands of workers will be out of employment, the soldiers and sailors who fought and bled "to make the world safe for democracy" will find it hard to make ends meet. Our profiteers will find the conditions good for more and greater profits, to lower wages and maintain present prices, or even increase them.

Our soldiers and sailors even may have learned while on the other side what Socialism is.

Conditions will be ripe for active and successful Socialist propaganda, if we will but know how to utilize them.

So, while we are celebrating the advent of the new year, and while we are wishing each other a happy New Year, let us remember that happiness for the many is impossible while the capitalist system lasts.

So, let us celebrate the new year by resolving (but no new year resolution to be forgotten) that, no matter how much we may have done for the Socialist cause in the past, this year we will do more, and that, no matter what may come, we shall stand by our cause and our party, and make our party more active, organize it so that it will be strong and able to withstand all attacks, regardless where they may come from.

Wishing all Socialists in general, and comrades in particular, a happy New Year, my wish of all wishes is that 1919 will bring to our party and our cause the success we have been striving for, and that the end of the new year will find us in line with Socialist Europe. Then, and only then, there will be real happiness, peace on earth and good will towards mankind.

JULIUS GERBER.

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[Issue of Jan. 1, 1919.]

THE TURNING POINT IN HUMAN HISTORY, SAYS HILLQUIT.

A happy New Year, comrades, to you and all of you, here and everywhere.

To the 150,000,000 proletarians of factory and field in all Russian territories, the pioneer-warriors for human rights and human dignity, for liberty and bread. May the new

year bring them unity and power, victory and peace, and deliverance from all reactionary onslaughts, domestic and foreign.

To the workers of Germany and Austria and Poland and Bohemia, freed from the choking yoke of their sanguinary political and military rulers. May they achieve in the new year their emancipation from economic slavery, and may they rear upon the unshakable foundations of true democracy the enduring structures of free, happy, and pacific Socialist republics.

To the workers of Great Britain, France, Belgium, and Italy, who are emerging strong and valiant and true from the capitalist purgatory of blood and ruin. May the new year bring them added influence and power in their respective countries, to the end that justice, peace and security be assured to their own peoples and to all the nations of the world.

To the workers of the United States, the rearguard in the onward march of revolutionary international labor. May the new year bring them enlightenment and progress, and may they conquer for themselves that position in the government of their country to which their numbers and economic importance entitle them.

A happy New Year, a happy new era, a happy new world!

The coming year will probably mark the turning point in human history. It will be a decisive year for international Socialism. It will bring us great triumphs and conquests, but also hard struggles and trials. Let us meet them like men and like Socialists, comrades—loyally, courageously and unflinchingly.

A happy New Year, a happy new era, a happy new world.

MORRIS HILLQUIT.

SARANAC LAKE, N. Y.

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[Issue of Aug. 18, 1919.]

#### SELF-DETERMINATION.

Self-determination became a common theme of discussion during the war and has usually meant that governments derive their just powers from the consent of the governed. It is expressed in the Declaration of Independence, and the idea

is supposed to have been embodied in the Federal Constitution by its framers. However, we agree with the candid statement of the Journal of Commerce that "it sounds well," and that many "honest people have accepted it without reservation." The reason why it was so eloquently phrased in the Declaration is because it sounded well and gripped the imagination of the masses at that time who were essential to the success of the revolution.

But as a matter of fact many of the leading men of the revolutionary period did not believe in it. Madison, Hamilton, Morris, and others believed that governments were founded upon property and derive their powers from property, and that it is their duty to guard it and insure its transmission to legitimate heirs. Daniel Webster and other politicians of his time passionately held to the same views. When the Eastern States were revising their constitutions during the first half century of the Republic the debates in the State constitutional conventions show that the most influential men of that time, especially members of the legal profession, believed in property as the basis of government and not the consent of the governed.

The Federal Constitution itself represents a series of compromises between the representatives of various forms of property that were contending for control. These represented the slave-owning and slave-trading classes, those interested in finance, those representing commerce and manufactures and the landed interests. So thorough was the belief that property is the basis of government and that from it is derived all sovereignty, that the framers of the Constitution allowed the property qualifications for the suffrage in the various States to remain as they were. These qualifications excluded masses of workers, mechanics and farmers from the franchise, and it was many years before these restrictions were wiped out.

The concept has by no means been abandoned, for the framers of the Constitution looked forward to the time when the franchise would be extended to the propertyless. They believed that with the checks and balances of the Constitution and by dividing the masses into many political groups, they could prevent any general unity of the majority and thus insure the rule of the minority of more powerful property owners. Madison, in fact, outlined this very thing. We have the illusion of self-determination and property has the sub-

stance. The illusion is venerated and celebrated in song and speech because it "sounds well" and aids in keeping the yokels contented. It will become a reality when the masses are masters of property and classes disappear in a socialized world.

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[Same issue, Aug. 18, 1919.]

THOUGH JAILED, HE SPEAKS — Deb's Daily Message.

"The labor of a human being is not a commodity or article of commerce," says the Clayton law, which has been heralded as "a new Declaration of Independence." Isn't it? Well, then, why do you sell yourself every hour of the day? The next thing you know the same capitalist Congress will enact a law that declares that workingmen are no longer poor, but rich, and presto! they will all be millionaires.

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[Issue of Sept. 9, 1917.]

CONSCIENTIOUS OBJECTORS TO CAPITALISM.

Workers, you must awake. You must see the injustice, the immorality of it all. You must understand the gross immorality of this your system of society — of capitalism. You must have conscientious objections to it. You must be filled with a passionate desire to rid your country of it.

Now is your opportunity. Now is your chance. Send all war, all poverty, all misery from the earth. Strike the shackles of wage slavery from yourself and your brothers by striking at its cause — capitalism. Strike the viper — profit — from out the relations of man and man by striking at its cause — capitalism. Strike at the curse of men everywhere — war — by striking at its cause — capitalism.

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[Issue of July 28, 1917.]

AN IMAGINARY CONVERSATION ABOUT "IF."

Let us take a capitalist and, making him talk, "right out in (private) meeting," run him up against Borah, and see what he can do with this statement:

BORAH. If the war does not involve our institutions —

CAPITALIST. But, my dear Senator, it does. It involves the institution of property — our property.

BORAH. What do you mean, "our" property.

CAPITALIST. Just what I say. Our property. Capitalist property the basic and fundamental institution of the country.

BORAH. Who says it does?

CAPITALIST. I say it does. All us capitalists say it does. And who should know better than we? We own the property, don't we? Who is to say it is or is not involved, except ourselves? We lose it if we don't go to war with Germany.

BORAH. Who do you mean by "we?" Yourself?

CAPITALIST. Hum — no. Not in the second mention of the word. The people who have no property to defend must defend what property there is. We own it. They fight because that ownership, we capitalists consider, is menaced.

47. That the above-mentioned articles were not alone considered by respondent in rejecting the application for the readmission of said publication to the second-class mailing privilege in its application dated January 9, 1919, but other matter contained in various issues of said publication but not specifically mentioned above, were also taken into consideration in determining the mailable character of the matter being sent through the mails in said publication.

He further says that in his judgment in their entirety the issues so presented and considered evince a purpose on the part of the relator to "willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States to promote the success of its enemies during the war," and "willfully cause and attempt to cause insubordination, disloyalty, mutiny, and refusal of duty in the military or naval forces of the United States," and to "willfully obstruct the recruiting or enlistment service of the United States to the injury of the service of the United States."

He further says that in his judgment in their entirety the issues so presented and considered evince a purpose on the part of the relator to willfully deposit and send through the mails matter of a character tending to incite "arson, murder, or assassination," and matter advocating or urging treason, insurrection, or forcible

resistance to the laws of the United States, in violation of section 211 of the Criminal Code, as amended, and sections 1 and 2 of Title XII of said espionage act.

48. Referring to the issues of the New York Call for the period beginning Monday, October 13, 1919, and ending October 19, 1919, both dates inclusive, that were tendered by the petitioner in paragraph 12 of the petition, for consideration of this honorable court, as typical of the general physical character and of the contents thereof, the following are a few excerpts by date and title from several of the issues of said publication for said period.

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[Issue of Oct. 14, 1919.]

#### YIPSELS SEVER RELATIONS WITH SOCIALIST PARTY.

Indorsing the third international and declaring themselves an integral part of the international communist movement, the seventh annual convention of the Young People's Socialist League, in session at the Communist Party headquarters, 255 Grand Street, yesterday voted to become an independent organization by a majority of 12 to 3.

\* \* \* \* \*

The preamble to the constitution, indorsed by a majority of the convention, contained the following clause:

"The aims and purposes of the organization shall be the organization and education of the proletarian youth based on the lines of the class struggle for the abolition of the capitalist state and the establishment of the industrial commonwealth through the dictatorship of the proletariat."

The phrase "the dictatorship of the proletariat" was introduced at the suggestion of Wolfe.

#### REPUDIATE BERNE CONFERENCE.

The manifesto repudiated the Berne International and called upon the Y. P. S. L. members of the United States to affiliate with the international communist movement. It read, in part:

"We, the members of the Y. P. S. L. of the State of New York, repudiate the Berne conference and all the Socialist groups that participated in or adhered to it. We declare

ourselves an integral part of the international communist movement. We are in complete harmony with the communist international movement and call upon the international Y. P. S. L. to affiliate with it. We affirm our solidarity with them and pledge ourselves to fight side by side with them in the international class struggle. We greet our comrades in America and bid them realize that their historic position makes it imperative that we study and act in accord with the revolutionary Socialist principles."

[Advertisement.]

I. W. W. MASS MEETING — HARRY LLOYD, OF SEATTLE, WASH.

Leading I. W. W. speaker of the Pacific coast, just released on \$10,000 bond from the Federal penitentiary at Leavenworth, Kans., after serving 1 year of a 10-year sentence, will speak on the famous Chicago I. W. W. trial. Lloyd was a defendant, together with 113 other workers in this trial, the longest and most bitterly contested struggle of labor in modern courts. Will speak at the Labor Temple, Second Avenue and Fourteenth Street, to-night at 8.15. Come one, come all. Admission free.

Auspices of the New York Defense Committee.

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[Issue of Oct. 17, 1919.]

A PROCLAMATION OF THE NEWLY ELECTED SOVIET IN PETROGRAD ADDRESSED TO THE WORKERS, SOLDIERS, AND SAILORS IN ENGLAND, FRANCE, ITALY, AMERICA, SWEDEN, FINLAND, ESTHONIA, AND SERBIA.

Comrades: We are convinced that for you, too, the hour is approaching when you will free yourselves from oppression by the bourgeoisie. The Governments of your countries are doing their best to destroy themselves. Yet we do not wish to fight you. It is your Governments that are provoking war.

\* \* \* \* \*

For all that, we do not give up, and we never shall. We are convinced, comrades, that in your countries, too, the red flag will triumph. The general strike called by you for July 21 we greeted as the first sign of spring.

We live under the conviction that the workers of France, England, America, Italy, and other countries will not allow their bankers and landowners to use them as the gendarmes and hangmen of the workers' revolution.

\* \* \* \* \*

Arise in revolt, comrades. Put an end to the crimes of your Governments. Extend the hand of brotherhood to the workers in the other countries. Do everything in your power to withdraw support from the counter revolutionaries in Russia.

We send you our fraternal greetings and cry out together with you: "Long live the revolution of the workers in all lands."

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[Issue of Oct. 18, 1919.]

DEBS FACES DEATH IN PRISON, BUT WON'T RECANT —  
HUMANIST IS EAGER TO DO HIS PART  
IN STEEL GIANTS' WAR.  
WON'T RETRACT ANY UTTERANCE.

My attitude has not changed one whit since I came to prison. I would not take back a single word; I would not retract a single sentence. I will make no promises of any kind or nature to obtain my freedom. It would not be freedom if obtained by any retraction, promises, or apostasy. To me that would be the worst slavery.

\* \* \* \* \*

WOULD EMULATE LIEBKNECHT.

That is the way I want to come out. That is the only decent way. I want to come out as Liebknecht came out. The proletariat of Germany shook the empire to its foundations, and the beasts of Berlin readily found it convenient to unlock the barred doors.

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[Issue of Oct. 19, 1919, the Call Magazine.]

MANIFESTO OF THE HUNGARIAN SOCIALIST PARTY.

The Hungarian Socialists have addressed the following appeal to the working people of the entente:

**"Comrades: The Russian and Hungarian workers can not attain the victory of the revolution unaided. They could not do it even if the German workers ranged themselves on their side. Now that your bourgeoisie has attained the height of its power, now that it is in its turn trying to hold the whole world in the iron grip of its militarism, there is but one force that can save the Russian and Hungarian revolutions and conduct the international revolution to victory. This force is yours, workers of the entente nations. On your shoulders, comrades, now rests the tremendous responsibility for the future of the worker's revolution, which is, at the same time, the future of humanity. And it is your sacred duty, your historic task, to raise the awful weight that entente capitalism is holding down on the famished and bleeding people, to save the threatened revolutions and to prepare for the victory of Socialism the whole world over by overthrowing your Governments and assuming power yourselves. Comrades, when in January, 1918, German imperialism, intoxicated by victory, prepared to cast its reign of violence over the east of Europe, a million workers arose in Germany, Austria, and Hungary and proclaimed a general strike. They did not succeed in breaking the powerful state machine, and their rising was crushed by the army. But it was a first step toward the November revolution, which tore up the Brest-Litovsk treaty and so saved the honor of the working class of Germany, Austria, and Hungary that had been dragged in the mud by some of its leaders.**

**"It is now your turn to act likewise. It is not enough for your parliamentary representatives to vote against the budget; they will be dominated by a majority. It is not enough to protest in meetings, for your Lloyd Georges, Orlandos, Clemenceaus, and Wilsons disdain to notice such protests. You must not wait to obtain a majority in your parliaments, for every day which passes in inactivity means the death of thousands of workers, the destruction of natural riches, the dragging of humanity further into the morass of capitalist anarchy. Every day let go by may mean the destruction of the worker's revolution in Russia or in Hungary. \* \* \***

**"The eyes of the working class of the East, in all their struggles, sufferings, and constructive work are turned toward you. On your revolutionary will and revolutionary**

acts depend the fruit of their heroic efforts — which are also preparing your own liberation; on them depend your future and the future of the workers of the whole world. Show your exploiters by acts, by demonstrations, by mass strikes, that you are determined to carry on the struggle for Socialism to bring help to your working-class brothers. Show that you are worthy of your revolutionary ancestors. Your struggle, too, will be rough and will demand many sacrifices. You will not triumph in the first attack, but every one of your steps on the revolutionary road will prepare the way for the final victory.

“Long live the workers’ republics. Long live the French, English, and Italian revolutionists. Long live the working class international revolutions.

“(Signed) COMMITTEE FOR FOREIGN RELATIONS  
OF THE HUNGARIAN SOCIALIST PARTY.”

49. And this respondent further submits to this honorable court whether, in view of the character of those statements thus cited, the relator shall be awarded the extraordinary relief of the writ of mandamus; and he prays the same benefit of this answer as if he had been heard, in limine against the issue of said rule, and also as if he had demurred to said petition.

Further answering, respondent, as to each of the allegations of the petition not expressly admitted or denied, says he neither admits nor denies the same, but so far as they are material he demands strict proof thereof.

And having fully answered the rule to show cause, this respondent prays that the petition be dismissed, the rule to show cause discharged, and that this respondent may go hence with his reasonable costs and charges.

(Signed) A. S. BURLISON,  
*Postmaster General of the United States.*

JOHN E. LASKEY,  
*Attorney for the United States in and for the District of Columbia.*

(Signed) WILLIAM H. LAMAR,  
*Solicitor for the Post Office Department.*  
*Attorneys for the Respondent.*

## EXHIBIT A.

## APPLICATION FOR ENTRY OF A PUBLICATION TO THE SECOND CLASS OF MAIL MATTER UNDER THE PROVISIONS OF THE ACT OF MARCH 3, 1879.

Received, Post Office, New York, N. Y., Jan. 9, 1919.

Third Assistant Postmaster General, Division of Classification. Received January 11, 1919.

Applicants should carefully read this form in its entirety before attempting to answer any of the questions, as it contains important instructions regarding its preparation. A failure to properly answer the questions and sign and make oath to the application will delay a decision in the case.

Before a publication can be admitted to the mails at the second-class postage rates under the provisions of the above act, the publisher (or his duly authorized representative) must make application therefor on this form, through the postmaster, at the office at which entry is desired.

Prior to the submission of such application all copies of the publication, when mailed, are subject to postage at the third-class rate — one cent for each two ounces or fraction thereof to be prepaid with stamps affixed — or, if the publication be a book, at the rates applicable to books.

## POST OFFICE AT NEW YORK, N. Y.

Application is hereby made to have the New York Call, published at this place, admitted to the mails at the second-class postage rates.

1. How often is the publication issued? Answer: Every day in the year.

2. What is the subscription price? Answer: Three cents per copy in New York City and \$2 per month by mail.

3. In what city, county, and State is the publication printed? Answer: New York City, New York County, State of New York.

4. In what city, county, and State is the "known office of publication" located? Answer: New York City, New York County, State of New York.

5. How many issues have been published from the above-mentioned office of publication under the present title, and frequency of issue? Answer: Daily except Sunday since May 30, 1908, and daily and Sunday since October 10, 1909.

6. (a) Has application for entry of this publication as

second-class matter ever heretofore been made? Answer: Yes.

(b) If so, what was the (1) title? Answer: The New York Evening Call.

(2) Frequency of issue? Answer: Daily.

(3) Place of publication? Answer: New York, N. Y.

(c) If previously entered as second-class matter, what was the date of the last issue under such entry? Answer: November 13, 1917.

7. (a) What is the full and correct name of the publisher (proprietor)? Answer: The Workingmen's Cooperative Publishing Association.

(b) If a firm or corporation, give the names of the persons constituting the same. Answer: A membership corporation consisting of 521 members.

8. (a) Are any of the above-named persons interested financially in any business or trade represented by the publication? Answer: No.

(b) If so, what is the interest? Answer: The New York Call does not represent any business or trade.

(c) Have any of the persons or concerns which advertise in the publication any interest therein? Answer: None.

(d) If so, what is the interest? Answer: Members of the association may insert advertisements at regular rates.

9. Can all persons or concerns advertise in the publication at the regular rate? Answer: Yes, except such advertising as is prohibited by law or considered objectionable by the publishers.

10. If more than one copy of each issue of the publication is furnished any one person or concern advertising therein, state the number of copies furnished and the reasons therefor. Answer: Only one copy furnished when requested.

11. How many copies were printed of the issue (twelfth year, No. 7, January 7, 1919) nearest to the date of the application? Answer: Twenty thousand five hundred and seventy-five.

12. The claimed list of subscribers is made up as shown in the answers to the following interrogatories (a) to (m), inclusive:

(a) How many subscriptions were made direct to the publishers by the persons to whom the publication is sent at the full advertised subscription price without any extraneous inducement? Answer: Three hundred and eleven.

(b) How many subscriptions were made direct to the publisher by the persons to whom the publication is sent in connection with the offer of a premium, prize, or other consideration? Answer: None.

The value of such premium, prize, or other consideration (if more than one, give the retail market value of each) is? No premiums are used.

(c) How many subscriptions were made in connection with clubbing arrangements with other publications? Answer: None.

The full details of such arrangements were? We make no clubbing arrangements or offers.

(d) How many subscriptions were received through club raisers or agents? Answer: None.

(e) How many copies were furnished advertisers to prove insertion of advertisements? Answer: Twenty-seven.

(f) How many copies were sent as bona fide exchanges with other publications admitted to the second class, one copy for another? Answer: None.

(g) How many copies were sent to persons whose subscriptions were paid for by others? Answer: None to our knowledge.

(State on a separate sheet (1) who paid for these subscriptions, (2) the price paid, and (3) the purpose for which the copies were sent.)

(h) How many single copies were sold over the publisher's counter? Answer: One hundred and fifty-six.

(i) How many copies were sold by newsboys? Answer: None.

(j) How many copies were purchased by news agents for resale by them without the return privilege? Answer: Four thousand two hundred and seventy-five.

(k) How many copies were consigned to news agents for the purpose of sale with the return privilege? Answer: Allow news companies 2 per cent return. Fifteen thousand five hundred and seventy-five.

(l) How many copies were purchased in bulk by others than news agents or newsboys? Answer: None.

(m) How many copies were sent in fulfillment of subscriptions in a manner other than covered above? Answer: Complimentary. Eleven.

The subscriptions in (m) were obtained in the following manner: Sent free to correspondents and libraries.

Total subscriptions set forth above? Answer: Twenty thousand three hundred and fifty-five.

13. How many sample copies did you distribute of that issue. Answer: None.

14. How many copies in excess of those sent to subscribers and as sample copies remained of the total number printed as shown in answer to Question 11? Answer: Two hundred and twenty.

What disposition is to be made thereof? Answer: Used for files, office-use copies for clipping, and "overs" sold for waste.

The answers to the foregoing interrogatories 11 to 14, inclusive, truly set forth the circulation of the New York Call on January 7, 1919.

(Signed) **RAYMOND WILCOX,**  
*Business Manager of the Workingmen's Co-operative  
Publishing Association.*

Subscribed and sworn to before me on this 8th day of January, 1919.

(Signed) **JULIUS GERBER,**  
*Commissioner of Deeds, City of New York.*

My commission expires September 24, 1920.

*District of Columbia, to wit:*

I, ALBERT S. BURLESON, do solemnly swear that I am the Postmaster General of the United States; that I have read the foregoing answer by me subscribed and know the contents thereof; that the statements therein made as of personal knowledge are true, and those made upon information and belief I believe to be true.

(Signed) **ALBERT S. BURLESON.**

Subscribed and sworn to before me, a notary public, in and for the District of Columbia, this 22d day of December, 1919.

[SEAL] (Signed) **CHARLES E. DUNBAR,**  
*Notary Public, District of Columbia.*

My commission expires May 18, 1921.

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## ASSEMBLYMEN'S EXHIBIT 2

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FEBRUARY 11, 1920

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Supreme Court of the District of Columbia.

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MANDAMUS No. 63134.

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THE UNITED STATES OF AMERICA, EX REL. THE WORKINGMEN'S  
COOPERATIVE PUBLISHING ASSOCIATION, RELATOR,

*against*

ALBERT S. BURLESON, POSTMASTER-GENERAL OF THE UNITED  
STATES, RESPONDENT.

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*PETITION, AFFIDAVITS AND RULE TO SHOW CAUSE*

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S. JOHN BLOCK,  
ALEXANDER WOLF,  
FULTON BRYLAWSKI,  
*Attorneys for Relator,*

518 Jenifer Building, Washington, D. C.

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## ASSEMBLYMEN'S EXHIBIT 2

FEBRUARY 11, 1920

### Supreme Court of the District of Columbia.

THE UNITED STATES OF AMERICA, EX REL.  
THE WORKINGMEN'S COOPERATIVE PUBLISHING ASSOCIATION,

*Relator*

*against*

ALBERT S. BURLESON, POSTMASTER-GENERAL  
OF THE UNITED STATES,

*Respondent*

Mandamus Law  
No. 63134

RULE TO  
CAUSE

Upon consideration of the petition of THE WORKINGMEN'S COOPERATIVE PUBLISHING ASSOCIATION verified the 24th day of November, 1919, and filed herein this 3rd day of December, 1919, it is by the Court this 3rd day of December, 1919,

ORDERED, That the respondent ALBERT S. BURLESON, Postmaster-General of the United States, show cause, if any he has, on or before the 15th day of December, 1919, at ten o'clock A. M. why a writ of mandamus should not issue as prayed in said petition, provided a copy of said petition and a copy of this rule be served upon said respondent ALBERT S. BURLESON, Postmaster-General of the United States, on or before the 5th day of December, 1919.

DATED AT Washington, D. C., this 3rd day of December, 1919.

WILLIAM HITZ,  
*Justice.*

## SUPREME COURT OF THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA, ex rel.  
THE WORKINGMEN'S COOPERATIVE PUBLISHING ASSOCIATION,

*Relator,*

*against*

ALBERT S. BURLESON, Postmaster-General of  
the United States,

*Respondent.*

Law No. 63134.

PETITION.

*To the Supreme Court of the District of Columbia:*

The petition of The Workingmen's Cooperative Publishing Association respectfully represents and alleges:

*First:* The petitioner is a corporation duly organized and existing by virtue of the laws of the State of New York, and is the owner and publisher of a daily newspaper published in the Borough of Manhattan, City of New York, and known as The New York Call. The said corporation is not a stock corporation and is not operated for the pecuniary profit of its members.

*Second:* The said newspaper, The New York Call, has been published continuously in the Borough of Manhattan, City of New York since the 30th day of May, 1908. For some time after it began publication, it was published as a daily evening newspaper and was known as The Evening Call or The New York Evening Call, and was published every day of the week, except Sunday. Later it became a daily morning newspaper and was published every day of the week, including Sunday. Soon after it began publication, said newspaper was admitted to the second class of mail in the United States Post Office and remained in the possession of its second class mailing rights or privileges until the 13th day of November, 1917, when said second class mailing rights or privileges were revoked or canceled by the Post Office Department or the Postmaster-General of the United States. At all times since its publication said newspaper has been circulated generally throughout the city of New York and elsewhere, both by sale upon the streets and by circulation through the United States mails and otherwise. After its second class mailing rights or privileges were revoked or canceled and on account thereof it lost a large number of mail subscribers and was forced again to

become a daily evening newspaper. Beginning on or about the 3d day of December, 1917, it continued to be circulated generally as such and circulated through the United States mails as first class and third class matter. On or about the 12th day of August, 1918, it again became a morning newspaper and has since then been continuously published and circulated as a morning newspaper every day of the week, including Sunday, under the name of The New York Call.

The publication office of the petitioner and of The New York Call is now and has since the first day of September, 1919, been at No. 112 Fourth avenue, in the Borough of Manhattan, City of New York. During the years 1917, 1918 and 1919, prior to September 1, 1919, the publication office of the petitioner and of said publication was at No. 444 Pearl street in the Borough of Manhattan, City of New York. Prior to that, said publication office was for some time at No. 409 Pearl street in the Borough of Manhattan, City of New York, and at No. 6 Park place in the Borough of Manhattan, City of New York. At all times during its existence the publication office of said publication was in the Borough of Manhattan, City of New York.

*Third:* That at all times since it began publication, the said newspaper has complied with all of the provisions of law relating to publications which are entitled to second class mailing rights or privileges under the laws of the United States of America. At no time since the said newspaper began publication has it or the petitioner been prosecuted for any violation of law under the laws of the United States of America or of the State of New York, or of any other State or country.

*Fourth:* During the period beginning on or about December 3, 1917, and ending on or about August 12, 1918, while the said newspaper was published as an evening paper under the title of The Evening Call or The New York Evening Call, an edition of said paper was each day published also under the title of The New York Call for out-of-town circulation and copies of said The New York Call were circulated daily through the United States mails, either as first class or third class, as were also copies of The Evening Call.

*Fifth:* On October 8, 1917, your petitioner received a notice or citation from the Post Office Department, dated October 2, 1917, directing your petitioner to show cause why the authorization of admission of said publication, The New York Call, to the second class of mail matter should not be revoked, on the ground that

said publication, as it was charged in said notice or citation, "is not a newspaper or other periodical publication within the meaning of the law governing mailable matter of the second class, it being in conflict with the provisions of the law embodied in section 481½, Postal Laws and Regulations." Although said citation was dated October 2, 1917, it was not received by your petitioner from the Post Office Department until October 8, 1917, and said citation was returnable before the Third Assistant Postmaster-General at Washington, D. C., on the same date, October 8, 1917. Your petitioner on October 8, 1917, after receiving said citation sent a telegram to the Third Assistant Postmaster-General requesting an adjournment of the hearing before him upon said citation. On October 9, 1917, your petitioner received a telegram from the Third Assistant Postmaster-General stating that said hearing would be postponed until October 15, 1917.

No specified charges of any kind were served upon your petitioner with said citation or otherwise, and on October 11, 1917, your petitioner sent a letter to the Third Assistant Postmaster-General requesting specific charges, if any there should be. Said letter reads as follows:

THE NEW YORK CALL

444 PEARL STREET

NEW YORK CITY, *October 11, 1917.*

POST OFFICE DEPARTMENT, *Office of Third Assistant Postmaster-General, Washington, D. C.:*

C. D. No. 121126

In reply to the order of the Post Office Department dated October 2, 1917, directing the publishers of "The New York Call" to show cause why the authorization of admission of the said publication to the second class of mail matter should not be revoked, the publishers of the said publication respectfully represent that they are not sufficiently apprised by the said order to show cause or otherwise of any allegations, charges or reasons upon which it is claimed the "The New York Call" is not a newspaper or other periodical publication within the meaning of the law governing mailable matter of the second class, it being in conflict with the provisions of the law embodied in section 481½, Postal Laws and Regulations.

"The New York Call" has been published in the city of New York for more than nine years last past as a daily newspaper, and from the date of its first publication to the date hereof it has not missed a single issue but has been regularly published and mailed every day.

"The New York Call" is a newspaper in law and in fact as it regularly prints the general news of the day, which news is supplied to it by recognized news gathering agencies and by its own staff of reporters.

The publishers of "The New York Call" are not aware of ever having published matter in the said newspaper which in any way was or could be construed to be in conflict with the provisions of the law embodied in section 481½ of the Postal Laws and Regulations or with any other law.

The publishers of "The New York Call" submit that since the order to show cause above referred to is in the nature of charges calling for a defense, they are entitled as a matter of law to an explicit statement and specification of such charges, so as to be enabled to meet and answer the same, and they hereby respectfully request a specified statement of such charges.

As the department is undoubtedly aware, the United States District Court for the Southern District of Georgia has specifically held in a similar case that the publisher is entitled to specific information of all features "deemed so unmailable as to induce the conclusion by the Postmaster-General that the publication was not a newspaper in the meaning of the law confirming the second class privilege."

As soon as such specific charges will have been served upon them the publishers of "The New York Call" will be ready to make answer thereto as requested by the Post Office Department.

Respectfully submitted,

THE NEW YORK CALL.

BY RAYMOND WILCOX,  
*Business Manager.*

On October 13, 1917, your petitioner received a letter from the Third Assistant Postmaster-General stating that specific charges would be given at the hearing on October 15, 1917.

*Sixth:* On October 15, 1917, a hearing was had upon said citation at the office of the Third Assistant Postmaster-General, Hon. A. M. Dockery, at Washington, D. C. Charles W. Ervin, editor of said newspaper, appeared at said hearing, and Morris Hillquit and S. John Block appeared at said hearing as attorneys for your said petitioner. Oral discussion was had before the Third Assistant Postmaster-General, and an Assistant Solicitor of the Post Office Department referred to a number of articles in various issues of said newspaper which had been published prior to said date, and which he contended violated the provisions of the Espionage Law or other statutes. None of said issues had been held by the Postmaster at any time and all of said issues had been permitted by the Post Office Department to circulate through the mails. No complaint had ever been served upon your petitioner to the effect that any of said issues contained any matter which was in any way objectionable or which in any way violated any law of the United States or of any of the states and territories of the United States. Your petitioner has never been prosecuted for any alleged violation of law based upon any article contained in any of said issues of said newspaper which were referred to by the said Assistant Solicitor at said time. In fact, your petitioner has never been prosecuted for any alleged violation of law at any time whatsoever during the existence of your petitioner and during the existence of The New York Call or The Evening Call.

*Seventh:* After said hearing before the Third Assistant Postmaster-General and on October 27, 1917, your petitioner received a transcript of the record of said proceedings setting forth the dates of and certain contents of certain issues of the said newspaper which it was contended were objectionable under the Espionage Law. Your petitioner was granted seven days' time to make reply after the receipt of said transcript. At said hearing your petitioner's said attorneys and said editor made oral answer to the charges of the solicitor relative to said articles.

*Eighth:* On October 28, 1917, your petitioner answered in writing the charges to the effect that the articles quoted by the Solicitor constituted nonmailable matter. Said articles were quite numerous and may be classified under several heads as follows:

1. Articles relating to the causes of the war.
2. Articles relating to the benefits derived or to be derived through war by business interests.
3. Articles relating to the participation of the United States in the war in the interest of foreign nations.

4. Articles containing a criticism of President Wilson and his administration.
5. Articles relating to labor and the war.
6. Articles relating to the question of conscription.
7. Articles to the effect that the war was not a war for democracy.
8. Articles relating to the Liberty Loan.
9. Articles relating to Conscientious Objectors.
10. Articles discussing peace.
11. Articles relating to war sentiment.
12. Articles relating to the economic causes of the war.
13. Articles relating to the international solidarity of labor.
14. Articles relating to opposition to war in general and to the entry of the United States into the recent war.

*Ninth:* On November 13, 1917, your petitioner received a letter dated November 13, 1917, from T. G. Patten, Postmaster of New York City, notifying your petitioner that its second-class mailing rights or privileges had been revoked upon the ground that your petitioner's said publication was not, to quote from said letters, a "newspaper or other periodical publication within the meaning of the law governing mailable matter of the second class, it being in conflict with the Act of June 15, 1917 (Espionage Law)." Said letter is as follows:

• UNITED STATES POST OFFICE

NEW YORK, N. Y., November 13, 1917

*Publishers of "The New York Call," 444 Pearl Street,  
New York, New York:*

GENTLEMEN: In accordance with instructions from the Third Assistant Postmaster General, you are informed that upon the issuance of a citation to the publishers of "The New York Call," to show cause why the authorization of admission of that publication to the second class of mail matter should not be revoked, and upon receipt and consideration of the publishers' written response thereto, and after a hearing accorded the publishers on October 15, 1917, the Department upon consideration of all the facts before it, determined that "The New York Call" is not entitled to transmission in the mails at the second-class rates of postage, because it appears from the evidence in possession of the Department that the

publication is not a "newspaper or other periodical publication" within the meaning of the law governing mailable matter of the second class, it being in conflict with the Act of June 15, 1917 (Espionage Law).

Therefore, the authorization heretofore issued for the acceptance of "The New York Call" for mailing at the second class rates of postage has been revoked.

Very respectfully,

T. G. PATTEN

*Postmaster*

Per

THOS. MURPHY

*Assistant Postmaster*

With the exception of said letter, your petitioner has never been informed by the Postmaster-General of the United States or by the postmaster of the city of New York or by any other persons as to the reasons for the revocation of the said second-class mailing rights or privileges, which had been granted to your petitioner for its said newspaper as hereinbefore set forth.

*Tenth:* Section 7304 of the United States Compiled Statutes, being the Act of March 3, 1879, chapter 180, section 10, 20 Stat. 359, provides as follows:

"Mailable matter of the second-class shall embrace all newspapers and other periodical publications which are issued at stated intervals, and as frequently as four times a year and are within the conditions named in sections twelve and fourteen."

Section 7305 of the United States Compiled Statutes, being the Act of March 3, 1879, chapter 180, section 12, 20 Stat. 359, provides as follows:

"Matter of the second class may be examined at the office of mailing, and if found to contain matter which is subject to a higher rate of postage, such matter shall be charged with postage at the rate to which the inclosed matter is subject: Provided, That nothing herein contained shall be so construed as to prohibit the insertion in periodicals of advertisements attached permanently to the same."

Section 7306 of the United States Compiled Statutes, being Act of March 3, 1879, chapter 180, section 14, 20 Stat. 359, provides as follows:

"The conditions upon which a publication *shall be* admitted to the second class are as follows: First, It must be regularly issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively. Second, It must be issued from a known office of publication. Third, It must be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications. Fourth, It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers; Provided, however, That nothing herein contained shall be so construed as to admit to the second class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates."

*Eleventh:* At all times during the publication of The New York Call and The Evening Call, as hereinbefore set forth, said publications have conformed to and complied with each and every one of the requirements relating to second-class mail matter set forth in the said sections of the laws above quoted and with all other provisions of the laws of the United States relating to second-class mail matter.

*Twelfth:* Submitted herewith and made part hereof are copies of the issues of The New York Call of the following dates: Monday, October 13, 1919, to Sunday, October 19, 1919, both dates inclusive. Said issues are typical of the general physical character of said publication and of the contents of said publication, which embrace general news articles, editorial matter, special articles on economics, politics, the sciences, literature and other subjects. Said publication was originated and has always been published for the dissemination of such information and it has not been disseminated primarily for advertising purposes or for free circulation or for circulation at nominal rates. Said publication has always had and still has a legitimate list of subscribers consisting of persons who have subscribed for said publication for a definite time, either by themselves or by another on their

behalf, and have paid, or promised to pay for it a substantial sum as compared with the advertised subscription price; news agents and news boys purchasing copies for resale; purchasers of copies over the publisher's counter, other publishers to whom exchanges are mailed, one copy for another; advertisers receiving one copy each in proof of the insertion of their advertisement, all as provided by section 419 of the Postal Laws and Regulations, pertaining to the second class of mail matter.

*Thirteenth:* After said revocation of said second class mailing rights or privileges and during the late war, certain issues of said publication which had been delivered to the postmaster of the city of New York for transmission through the mails, either as first class or third class matter, were held by said postmaster until instructions should be received by him from the solicitor of the Post Office Department, to whom copies of said issues had been submitted by said postmaster in accordance with the provisions of section 481½, Postal Laws and Regulations, 1913, for advice as to whether the same were mailable. Your petitioner received letters from T. G. Patten, postmaster of New York city, to that effect. After said various issues had been held by said postmaster for some time a number of said issues were declared to be mailable and were despatched through the mails and a number of other of said issues were declared to be non-mailable and were not despatched.

*Fourteenth:* In not one instance when any issues of said newspaper were declared nonmailable by the solicitor of the Post Office Department or by the Postmaster of the City of New York, was your petitioner informed of the reasons or grounds for such declaration. Said issues were arbitrarily declared to be nonmailable without reference to any article or other matter contained in any of said issues which might be held to be or alleged to be non-mailable matter under any of the laws of the United States of America.

*Fifteenth:* The following embraces a chronology of the circumstances connected with the revocation of said second class mailing rights or privileges, and of the circumstances connected with the holding of certain issues of said newspaper by the Postmaster, the dates being either the exact dates or the approximate dates:

October 2, 1917: Citation issued by Post Office Department of the United States, requiring your petitioner to show

cause why second class mailing rights should not be revoked. Said citation was not received by your petitioner from the Post Office Department until October 8, 1917 and was returnable before the Third Assistant Postmaster-General at Washington, D. C., on October 8, 1917.

October 8, 1917: Your petitioner caused a telegram to be sent to the Third Assistant Postmaster-General, requesting an adjournment of the hearing before him.

October 9, 1917: Telegram received by your petitioner from the Third Assistant Postmaster-General, stating that the hearing upon said citation would be postponed until October 15, 1917, at 2 P. M.

October 11, 1917: No specific charges having been served with said citation or otherwise, your petitioner caused a letter to be sent to the Third Assistant Postmaster-General requesting specific charges.

October 13, 1917: Letter received from Third Assistant Postmaster-General Dockery, stating that specific charges would be given at the hearing on October 15, 1917.

October 14, 1917: A public meeting to protest against the threatened action of the Post Office Department or the Postmaster-General relative to the revocation of the second class mailing rights or privileges was held at Madison Square Garden, New York City, and was attended by approximately 18,000 persons. At said meeting a number of speakers delivered addresses relative to the threatened action of the Postmaster-General and relative to the rights of freedom of speech and freedom of press guaranteed by the Constitution of the United States.

October 15, 1917: A hearing upon said citation was had at Washington, D. C., at the office of the Third Assistant Postmaster-General, Mr. Dockery, at which hearing Morris Hillquit and S. John Block appeared as attorneys for your petitioner, and Charles W. Ervin, the editor of said newspaper, also appeared. Certain proceedings were thereupon had orally and Assistant Solicitor of the Post Office Department referred to a number of articles in various issues of said newspaper which had been published prior to said date, and which he stated violated the provisions of the Espionage Law or other statutes. Your petitioner was granted seven days' time to make reply after the receipt of a transcript

of the record of said proceedings. Your petitioner's said attorneys and said editor at said hearing made oral answer to the charges of the solicitor relative to said articles.

October 22, 1917: Your petitioner's attorneys received a transcript of said proceedings.

October 28, 1917: Your petitioner answered in writing the alleged charges and forwarded said answer to the Third Assistant Postmaster-General at Washington, D. C.

November 13, 1917: Your petitioner received a letter from Assistant Postmaster Murphy of New York City, notifying your petitioner that its second class mailing rights had been revoked.

November 24, 1917: Letter received from Postmaster stating that issue of November 24, 1917, was regarded as nonmailable.

November 26, 1917: Telephone conversation between Raymond Wilcox, business manager of the Call, and Assistant Postmaster Mulker of New York Post Office, who stated that editorial entitled "Some Figures on War Finance" was objectionable.

December 28, 1917: Letter received from Post Office stating that issue of December 20, 1917, was being held to determine whether or not it was mailable under section 481½ of the Postal Laws.

December 28, 1917: Letter received from Postmaster stating that December 28th issue of The Evening Call and December 29th issue of The New York Call were being held by the New York Post Office.

January 8, 1918: Letter received from Postmaster stating that said issues of December 28th and 29th were accepted for mailing and copies were despatched.

January 12, 1918: Letter received from Postmaster stating that January 7th issue of The Evening Call and January 8th issue of The New York Call were being held to determine whether or not they were mailable under the Espionage Law.

February 13, 1918: Letter received from Postmaster stating that February 11th issue of the Evening Call and February 12th issue of the New York Call were being held by the Post Office.

February 20, 1918: Letter received from Postmaster stating that issues of December 20th, January 8th and

February 12th of the New York Call and January 7th and February 11th issues of the Evening Call were considered nonmailable.

February 28, 1918: Letter received from Postmaster stating that issue of February 27th of The Evening Call and February 28th issue of the New York Call were being held by the Post Office.

March 2, 1918: Letter received from Postmaster stating that March 1st issue of the Evening Call and March 2d issue of the New York Call were being held.

March 5, 1918: Letter received from Postmaster stating that March 4th issue of the Evening Call and March 5th issue of the New York Call were being held.

March 11, 1918: Letter received from Postmaster stating that March 9th issue of the Evening Call and March 10th issue of the New York Call were being held.

March 11, 1918: Letter received from Postmaster stating that the issue of December 28th of the New York Call was considered nonmailable.

(In the various letters received by the New York Call or by the petitioner from the New York Postmaster stating that various issues of the Call were being held, it was stated that they were being held by the Postmaster, pending the receipt of advice by him from the Solicitor of the Post Office Department as to the mailability of said issues.)

March 12, 1918: Letter sent by the Call to the New York Postmaster requesting a refund of the value of the postage stamps on the issues of the Call which were being held by the Postmaster.

March 13, 1918: Received letter stating that issue of March 12th of the Evening Call and March 13th issue of the New York Call were being held.

March 14, 1918: Received letter from Postmaster stating that March 13th issue of the New York Call and March 14th issue of the New York Call were being held.

March 15, 1918: Received reply from Postmaster to letter regarding refund of value of stamps, letter stating that the matter will be given prompt attention and will be further advised as soon as practicable.

March 19, 1918: Received letter from Postmaster stating that March 4th issue of the Evening Call and March 5th issue of the New York Call were considered non-mailable.

March 19, 1918: Received letter from Postmaster stating that March 9th issue of the Evening Call and March 10th issue of the New York Call were considered non-mailable under the Espionage Law.

April, 1918: Received letter from Postmaster stating that April 2nd issue of the Evening Call and April 3rd issue of the New York Call were being held.

April 1918: Received letter from Postmaster stating that April 4th issue of the Evening Call and April 5th issue of the New York Call were being held.

April 11, 1918: Received letter from Postmaster stating that April 10th issue of the Evening Call and April 11th issue of the New York Call were being held.

April 18, 1918: Received letter from Postmaster stating that April 18th issue of the New York Call and April 17th issue of the Evening Call were being held.

April 23, 1918: Received letter from Postmaster stating that April 2nd issue of the Evening Call and April 3rd issue of the New York Call were considered non-mailable under the Espionage Act.

April 23, 1918: Received letter from Postmaster stating that April 4th issue of the Evening Call and April 5th issue of the New York Call were considered non-mailable.

April 24, 1918: Received letter from the Postmaster stating that the following issues were considered non-mailable:

The New York Call	The Evening Call
February 28, 1918	February 27, 1918
March 2, 1918	March 1, 1918
March 23, 1918	March 22, 1918
April 11, 1918	April 10, 1918.

April 25, 1918: Received letter from Postmaster stating that April 24th issue of the Evening Call and April 25th issue of the New York Call were being held.

May 6, 1918: Received letter from Postmaster stating that May 3rd issue of the Evening Call and May 4th issue of the New York Call were being held.

May 7, 1918: Received letter from Postmaster stating that May 6th issue of the Evening Call and May 7th issue of the New York Call were being held.

**May 13, 1918:** Received letter from Postmaster stating that May 11th issue of the Evening Call and May 12th issue of the New York Call were being held.

**May 14, 1918:** Received letter from Postmaster stating that April 18th issue of the New York Call and April 17th issue of the Evening Call were considered non-mailable.

**May 20, 1918:** Received letter from Postmaster stating that issue of May 3rd of the Evening Call and May 4th issue of the New York Call were accepted for the mails.

**May 21, 1918:** Received letter from Postmaster stating that May 21st issue of the New York Call and May 20th issue of the Evening Call were being held.

**May 21, 1918:** Received letter from Postmaster stating that May 6th issue of the Evening Call and May 7th issue of the New York Call were considered non-mailable.

**May 24, 1918:** Received letter from Postmaster stating that May 23rd issue of the Evening Call and May 24th issue of the New York Call were being held.

**May 29, 1918:** Received letter from Postmaster stating that Call Magazine of May 11th and May 12th enclosed with The Evening Call and The New York Call of respective dates is non-mailable.

**June 5, 1918:** Received letter from Postmaster stating that June 4th issue of The Evening Call and June 5th issue of The New York Call were being held.

**June 17, 1918:** Received letter from Postmaster stating that June 15th issue of the The Evening Call and June 16th issue of The New York Call were being held.

**June 19, 1918:** Received letter from Postmaster stating that June 18th issue of The Evening Call and June 19th issue of The New York Call were being held.

**June 20, 1918:** Received letter from Postmaster stating than June 19th issue of the The Evening Call and June 20th issue of The New York Call were being held.

**June 20, 1918:** Received letter from Postmaster stating that the following issues were considered non-mailable:

The New York Call.

May 21, 1918

May 24, 1918

June 5, 1918

The Evening Call

May 20, 1918

May 23, 1918

June 5, 1918

June 21, 1918: Received letter from Postmaster stating that June 20th issue of The Evening Call and June 21st issue of the The New York Call were being held.

June 27, 1918: Received letter from Postmaster stating that June 15th issue of The Evening Call and June 16th issue of The New York Call were accepted as mailable.

July 3, 1918: Received letter from Postmaster stating that July 2d issue of The Evening Call and July 3d issue of The New York Call were being held.

July 16, 1918: Received letter from Postmaster stating that July 15th issue of The Evening Call and July 16th issue of The New York Call were being held.

July 17, 1918: Received letter from Postmaster stating that July 16th issue of The Evening Call and July 17th issue of The New York Call were being held.

July 29, 1918: Received letter from Postmaster stating July 18th issue of The Evening Call and July 19th issue of The New York Call were accepted as mailable.

July 29, 1918: Received letter from Postmaster stating that July 27th issue of The Evening Call and July 28th issue of The New York Call were being held.

July 30, 1918: Received letter from Postmaster stating that July 29th issue of The Evening Call was being held.

August 1, 1918: Received letter from Postmaster stating that August 1st issue of The New York Call was being held.

August 2, 1918: Received letter from Postmaster stating that August 1st issue of The Evening Call and August 2d issue of The New York Call were being held.

August 2, 1918: Received letter from Postmaster stating that July 2d issue of The Evening Call and July 3d issue of the New York Call were considered non-mailable.

August 3, 1918: Received letter from Postmaster stating that August 2d issue of The Evening Call and August 3d issue of The New York Call were being held.

August 6, 1918: Received letter from Postmaster stating that August 5th issue of The Evening Call and August 6th issue of The New York Call were being held.

August 8, 1918: Received letter from Postmaster stating that August 7th issue of The Evening Call and August 8th issue of The New York Call were being held.

August 9, 1918: Received letter from Postmaster stating that August 8th issue of The Evening Call and August 9th issue of The New York Call were being held.

August 13, 1918: Received letter from Postmaster stating that August 13th issue of The New York Call was being held.

August 14, 1918: Received from Postmaster letter stating that August 14th issue of The New York Call was being held.

August 14, 1918: Received letter from Postmaster stating that the following issues were considered unavailable:

The New York Call:	The Evening Call:
March 13, 1918	March 12, 1918
March 14, 1918	March 13, 1918
June 20, 1918	June 19, 1918
June 21, 1918	June 20, 1918
July 16, 1918	July 15, 1918
July 17, 1918	July 16, 1918
July 28, 1918	July 27, 1918
July 30, 1918	July 29, 1918

August 15, 1918:— Received letter from Postmaster stating that August 15th issue of The New York Call was being held.

August 16, 1918:— Received letter from Postmaster stating that August 16th issue of The New York Call was being held.

August 22, 1918: Received letter from Postmaster stating that August 2nd issue of The Evening Call and August 3rd issue of The New York Call were declared nonavailable.

August 25, 1918:— Received letter from Postmaster stating that August 2nd issue of The New York Call and August 1st issue of The Evening Call were declared nonavailable.

August 26, 1918:— Received letter from Postmaster stating that August 25th issue of The New York Call was being held.

August 30, 1918:— Received letter from Postmaster stating that the following issues were declared nonavailable:

**The New York Call:**

August 6, 1918  
 August 8, 1918  
 August 9, 1918  
 August 13, 1918

**The Evening Call:**

August 5, 1918  
 August 7, 1918  
 August 9, 1918

September 4, 1918:—Received letter from Postmaster stating that July 31st issue of The Evening Call and August 1st issue of The New York Call were declared non-mailable.

September 5, 1918:—Received letter from Postmaster stating that August 14th and 16th issues of The New York Call were declared nonmailable.

September 9, 1918:—Received letter from Postmaster stating that September 8th issue of The New York Call was being held.

September 14, 1918:—Received letter from Postmaster stating that September 14th issue of The New York Call was being held.

September 18, 1918:—Received letter from Postmaster stating that August 25th issue of The New York Call was declared nonmailable.

September 21, 1918:—Received letter from Postmaster stating that September 21st issue of The New York Call was being held.

September 23, 1918:—Received letter from Postmaster stating that September 22nd issue of The New York Call was being held.

September 24, 1918:—Received letter from Postmaster stating that September 6th issue of The New York Call was accepted as mailable.

September 25, 1918:—Received letter from Postmaster stating that September 25th issue was being held.

September 27, 1918:—Received letter from Postmaster stating that September 27th issue of The New York Call was being held.

October 3, 1918:—Received letter from Postmaster stating that the issue of October 3rd was being held.

October 9, 1918:—Received letter from Postmaster stating that September 8th, 14th and 22nd, 1918, issues were being held.

October 12, 1918:— Received letter from Postmaster stating that issue of October 12th was being held.

October 14, 1918:— Received letter from Postmaster stating that issue of October 14th was being held.

October 19, 1918:— Received letter from Postmaster stating that issues of September 21, 25 and 27 were declared nonmailable.

October 24, 1918:— Received letter from Postmaster stating that the issues of October 3 and 12 were declared nonmailable.

October 26, 1918: Received letter from Postmaster stating that issue of October 26 was being held.

November 7, 1918: Received letter from Postmaster stating that issue of November 7th was being held.

November 9, 1918: Received letter from Postmaster stating that issue of November 9th was being held.

November 11, 1918: Received letter from Postmaster stating that issue of November 11th was being held.

November 13, 1918: Received letter from Postmaster stating that issue of October 14th was declared mailable and the papers despatched.

November 15, 1918: Received letter from Postmaster stating that issue of November 15th was being held.

November 20, 1918: Received letter from Postmaster stating that issue of October 26th was declared mailable and the papers had been despatched at once.

November 22, 1918: Received letter from Postmaster stating that issue of November 7th had been declared mailable.

December 10, 1918: Received letter from Postmaster stating that issues of November 11th and 15th had been declared mailable.

Sixteenth: Your petitioner has received other communications from the Postmaster of New York relative to the New York Call and the Evening Call and relative to the mailable or non-mailable of different issues of said newspapers, and your petitioner asks leave to submit evidence, by affidavit or otherwise, of the receipt of said communications and of their contents and of any action taken thereupon or with reference thereto by your petitioner or by any other persons, should your petitioner be

advised by its counsel that the submission of such further evidence to the Court in connection with this application may be necessary or advisable in the interests of justice, or should the Court desire such further evidence.

Seventeenth: The following are copies of letters which were received by your petitioner from said Postmaster, dated respectively December 28, 1917; December 29, 1917; January 8, 1918; January 11, 1918; March 11, 1918; March 19, 1918; April 24, 1918; June 29, 1918; August 3, 1918:

#### UNITED STATES POST OFFICE

NEW YORK, N. Y., *December 28, 1917.*

*Publisher, "The New York Call," 444 Pearl Street, New York, N. Y.*

You are hereby notified that the copies of the December 28, 1917, issue of the above named publication mailed at the General Post Office have been withheld from despatch for the reason stated below.

The question whether this issue is mailable under the Espionage Law will be referred to the Solicitor for the Post Office Department.

THOMAS G. PATTEN,  
*Postmaster.*

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#### UNITED STATES POST OFFICE

NEW YORK, N. Y., *December 29, 1917.*

*Publisher, "The Evening Call," 444 Pearl Street, New York, N. Y.:*

You are hereby notified that the copies of the December 28, 1917, issue of the above-named publication mailed at the general post office have been withheld from despatch for the reason stated below.

The question whether this issue is mailable under the Espionage Act has been referred to the Solicitor for the Post Office Department.

THOMAS G. PATTEN,  
*Postmaster.*

## UNITED STATES POST OFFICE

NEW YORK, N. Y., *January 8, 1918.*

*Publishers of "The New York Call," 444 Pearl Street,  
New York, N. Y.:*

GENTLEMEN: In connection with the communication sent to you on the 29th ultimo, you are informed that in accordance with advice from the Solicitor for the Post Office Department the December 28, 1917, issue of "The Evening Call" and the December 29, 1917, issue of "The New York Call" will be accepted for mailing. The copies held were despatched on receipt of the information from the Department.

Very respectfully,

THOMAS G. PATTEN,

*Postmaster.*

Per THOS. F. MURPHY,

*Assistant Postmaster.*

## UNITED STATES POST OFFICE

NEW YORK, N. Y., *January 11, 1918.*

*Publishers of "The New York Call," 444 Pearl Street,  
New York, N. Y.:*

GENTLEMEN: Your letter of the 9th instant is received. The Solicitor for the Post Office Department advises this office that the November 24, 1917, issue of "The New York Call" is non-mailable under the Espionage Law, and you were advised accordingly by letter from this office dated November 24, 1917.

The December 20th and December 28th issues were submitted to the Solicitor for advice as to the mailability thereof.

The copies of these issues that were mailed here are held awaiting instructions from the department as to their disposition.

Very respectfully,

THOMAS G. PATTEN,

*Postmaster.*

Per THOS. F. MURPHY,

*Assistant Postmaster.*

## UNITED STATES POST OFFICE

NEW YORK, N. Y., *March 11, 1918.**Publishers of "The New York Call," 444 Pearl Street,  
New York, N. Y.:*

GENTLEMEN: You are hereby notified in accordance with advice from the Solicitor for the Post Office Department that the December 28, 1917, issue of "The New York Call" is held to be non-mailable under the Espionage Act.

Very respectfully,

THOMAS G. PATTEN,

*Postmaster.*

## UNITED STATES POST OFFICE

NEW YORK, N. Y., *March 19, 1918.**Publishers of "The New York Call," 444 Pearl Street,  
New York, New York:*

GENTLEMEN: In connection with the communication sent to you by this office on the 5th instant relative to the March 4, 1918, issue of "The Evening Call" and the March 5, 1918, issue of "The New York Call," you are informed in accordance with advice from the Solicitor for the Post Office Department that these issues are non-mailable under the Espionage Act.

Very respectfully,

T. G. PATTEN,

*Postmaster.*

Per THOS. F. MURPHY,  
*Assistant Postmaster.*

## UNITED STATES POST OFFICE

NEW YORK, N. Y., *April 24, 1918.**Publishers of "The New York Call," 444 Pearl Street, New  
York, New York:*

GENTLEMEN: In accordance with advice from the Solicitor for the Post Office Department, you are hereby notified

that the following issues of "The New York Call" and "The Evening Call" are nonmailable under the Espionage Law:

"THE NEW YORK CALL"	"THE EVENING CALL"
<i>Issue</i>	<i>Issue</i>
February 28, 1918.	February 27, 1918.
March 2, 1918.	March 1, 1918.
March 23, 1918.	March 22, 1918.
April 11, 1918.	April 10, 1918.

Very respectfully,

T. G. PATTEN,  
*Postmaster.*

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UNITED STATES POST OFFICE.

NEW YORK, N. Y., July 29, 1918.

*Publishers of "The New York Call," 444 Pearl Street, New York, New York:*

GENTLEMEN: Authority having been received from the Solicitor for the Post Office Department to accept the June 18, 1918, issue of "The Evening Call" and the June 19, 1918, issue of "The New York Call" for mailing, the copies of these issues held were despatched on receipt of the authority from the Department.

Very respectfully,

T. G. PATTEN,  
*Postmaster.*

Per

THOS. F. MURPHY,  
*Assistant Postmaster.*

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UNITED STATES POST OFFICE.

SUPERINTENDENT OF MAILS — SECOND-CLASS SECTION.

NEW YORK, N. Y., August 3, 1918.

*Publisher, "The New York Call," 444 Pearl Street, New York, N. Y.:*

Issue: "Evening Call," August 2, 1918; "New York Call," August 3, 1918.

This issue has been submitted to the Solicitor for the Post Office Department in accordance with the provisions of section 4811½, Postal Laws and Regulations, 1913, for advice as to whether it is mailable, and any copies mailed will be held until instructions are received from the Department.

You will be further advised on receipt of information.

THOMAS G. PATTEN,  
*Postmaster.*

These letters are typical letters received by your petitioner from said postmaster relative to the holding by him of issues of the New York Call, of the Evening Call, and relative to action taken by the postmaster or by the solicitor of the Post Office Department relative to said issues, some of which were held to be nonmailable and some of which were considered mailable. In no instance in which an issue was considered by the Post Office Department to be nonmailable were the grounds or reasons for said action or judgment stated.

*Eighteenth:* As has hereinbefore been stated, your petitioner continued to publish the New York Call after said revocation of said second-class mailing rights or privileges, and said publication was published continuously daily and Sunday, and is still being so published and has been circulated generally through newsstands and newsboy circulation, and through United States mails either as first-class or third-class matter.

*Nineteenth:* On January 9, 1919, your petitioner filed an application with the postmaster of city of New York for the entry of said The New York Call to the second class of mail matter under the provisions of the Act of March 3, 1879. Said application was made upon a form or blank furnished by said postmaster and delivered by him to your petitioner, said form being the usual printed form prepared by and furnished by the postmaster. Your petitioner supplied upon said application blank all of the information required relative to your petitioner and your petitioner's said publication. Your petitioner has no copy of said application and respectfully requests that if the contents of said application should be deemed pertinent in the present proceeding the court shall require the postmaster to submit to the court said original application or a true copy thereof to be examined by and considered by the court in connection with this proceeding.

*Twentieth:* On January 11, 1919, your petitioner received from the Postmaster of the city of New York a letter, dated January 10, 1919, acknowledging receipt of said application for admission of the New York Call to the second class of mail matter and in said letter said Postmaster stated that the said application has been forwarded to the Department at Washington, and that your petitioner would be further communicated with as soon as advice should be received from the Department concerning the matter. Said letter reads as follows:

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UNITED STATES POST OFFICE

DIVISION OF MAILS, SECOND CLASS SECTION

NEW YORK, N. Y., *January 10, 1919*

*Publishers of "The New York Call" New York, N. Y.*

GENTLEMEN.—Your application for admission of the above named publication to the second class of mail matter has been received and forwarded to the Department at Washington. You will be further communicated with as soon as advice is received from the Department concerning the matter.

T. G. PATTEN,  
*Postmaster.*

*Twenty-first:* On January 22, 1919, your petitioner received from the Postmaster of New York city a letter dated January 21, 1919, requesting your petitioner to send the said Postmaster for official purposes one copy each of the latest ten issues of the New York Call. Your petitioner promptly complied with said request and furnished said issues to said Postmaster. Said letter reads as follows:

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POST OFFICE, NEW YORK, N. Y.

DIVISION OF MAILS, SECOND CLASS SECTION

*January 21, 1919*

*Publisher, "The New York Call," 444 Pearl Street, New York, N. Y.*

DEAR SIR.—Please send to this office for official purposes one copy each of the latest ten issues of your publication.

An official envelope, which requires no postage and may be used as a wrapper or label for the copies, is enclosed herewith.

Very respectfully,  
 THOMAS G. PATTEN,  
*Postmaster.*

*Twenty-second:* On February 1, 1919, your petitioner received a letter dated January 31, 1919 from said Postmaster stating that the Department at Washington had acknowledged the receipt of said application for entry of The New York Call to the second class of mail matter and that the Postmaster was instructed to inform your petitioner that this matter would be given consideration and that your petitioner would be further advised as early as practicable. Said letter reads as follows:

---

UNITED STATES POST OFFICE

NEW YORK, N. Y., *January 31, 1919*

*Publisher of "The New York Call," 444 Pearl Street, New York, N. Y.*

GENTLEMEN.—The Department at Washington has acknowledged the receipt of your application for entry of the above named publication to the second class of mail matter and this office is instructed to inform you that this matter will be given consideration and you will be further advised as early as practicable.

Very respectfully,  
 T. G. PATTEN,  
*Postmaster.*

Per T. M. F. MURPHY,  
*Assistant Postmaster.*

*Twenty-third:* After waiting from January 10, 1919, the date on which said Postmaster received said application, until May 21, 1919, a period of nearly four and one-half months for action by said Postmaster upon said application and for notification of said action, your petitioner having received no notification of said action and said application being then still pending, your petitioner's attorney S. John Block, by registered mail, sent a

letter dated May 21, 1919 to Hon. Albert S. Burleson, Postmaster-General of the United States at Washington, D. C., which letter reads as follows:

NEW YORK, May 21, 1919.

HON. ALBERT S. BURLESON, *Postmaster-General, Washington, D. C.*

SIR: I am writing to you on behalf of the New York Call, a daily newspaper which is owned by the Workingmen's Co-operative Publishing Association and which has been published continuously in New York City for eleven years. Sometime ago you withdrew or revoked the second class mail privilege of The New York Call and since said revocation The New York Call has circulated only through the mails as first class or third class matter under the handicap of postage substantially more expensive than that of the second class mail classification.

On January 9, 1919 an application on behalf of The New York Call was filed with the Postmaster at New York City for the entry of said newspaper as second class matter. On January 10, 1919 the New York Postmaster acknowledged receipt of said application and stated that it had been forwarded to your Department at Washington and that the publisher of The New York Call would be further communicated with as soon as advice should be received from the Department concerning the matter. On January 31, 1919 The New York Postmaster wrote to the publisher of The New York Call and stated that the Department at Washington had acknowledged the receipt of said application for entry of The New York Call to the second class of mail matter and that his office was instructed to inform the publisher that this matter would be given consideration and that the publisher would be further advised as early as practicable. Since then no further communication has been received either from the New York Postmaster or from your Department at Washington relative to said application.

There appears to be no legal ground why The New York Call should not be entered as second class matter. While it is true that certain war statutes conferred upon you the power to declare certain specific issues of specific publications to be non-mailable, I find no law which confers upon the Postmaster-General the power either to withdraw the second class mail privilege or right from a publication or to refuse

entry of a publication as second class matter if the statutory requirements relative to second class matter has been complied with, as they have been in the case of *The New York Call*. In this connection I would call your attention to the recent decision of the Court of Appeals of the District of Columbia in the case of *United States of America ex rel. Milwaukee Social Democrat Publishing Association v. Albert S. Burleson*, Postmaster-General of the United States, with which decision you are, of course, familiar. Justice Robb of that court, in his opinion in said action, filed May 5, 1919, said:

"There would be no question, in our view, as to the authority of the Postmaster-General to refuse the privilege of the mail to many, if not all, of the issues of appellant's publication between the dates mentioned, however, because they fall within the inhibition of the said statute. A more difficult question is presented, however, when we come to consider the right of the Postmaster-General to make a blanket order refusing the second class mail privilege to that publication in the future, which in practical effect is a refusal of mail privileges. The statute contains no express grant of such authority."

I trust that you will at once issue such order or orders as may be necessary to secure the re-entry of *The New York Call* as second class matter. If it should be necessary, for any reason, that a hearing be had in connection with this application, will you please appoint a time and place for such hearing and I will arrange to attend such hearing.

Awaiting your reply, I am

Very truly yours,  
S. JOHN BLOCK.

*Twenty-fourth:* On May 27, 1919, your petitioner's said attorney, S. John Block, received a letter, dated May 26, 1919, from A. M. Dockery, Third Assistant Postmaster-General of the United States, acknowledged receipt of the said letter of May 21, 1919, of the said S. John Block, and stating that the Postmaster-General had referred to the Third Assistant Postmaster-General the said letter of May 21, 1919, and advising that said application for entry of *The New York Call* as second-class matter was being given consideration and that a conclusion would be reached as early as practicable. Said letter reads as follows:

## POST OFFICE DEPARTMENT

THIRD ASSISTANT POSTMASTER GENERAL — DIVISION OF  
CLASSIFICATION,

WASHINGTON, *May 26, 1919.*

MR. S. JOHN BLOCK, 198 *Broadway, New York, N. Y.*

SIR.— In answer to your letter of the 21st instant, which the Postmaster-General has referred to me, you are advised that the application for entry as second-class matter of "The New York Call" is being given consideration, and a conclusion will be reached as early as practicable.

Respectfully,

A. M. DOCKERY,

*Third Assistant Postmaster-General.*

*Twenty-fifth:* After waiting again for a notification from the Postmaster or from the Third Assistant Postmaster-General relative to said application, and no notification having been received, your petitioner's said attorney, S. John Block, sent a telegram dated June 7, 1919, to the said Hon. A. M. Dockery, Third Assistant Postmaster-General, inquiring whether or not he could see the said Third Assistant Postmaster-General on June 10th, relative to said application and requesting an answer by telegram collect. Said telegram reads as follows:

## WESTERN UNION TELEGRAM

NEW YORK, *June 7, 1919.*

HON. A. M. DOCKERY, *Third Assistant Postmaster-General,*  
*Washington, D. C.:*

May I see you Tuesday June tenth relative to application of the New York Call? Please wire answer collect.

S. JOHN BLOCK,

*198 Broadway, New York.*

*Twenty-sixth:* On the same day, June 7, 1919, said S. John Block received a telegram from the Chief Clerk of the office of the Third Assistant Postmaster-General at Washington stating

that the Third Assistant was out of the city and that Mr. Block's telegram would be brought to his attention when he returns. Said telegram reads as follows:

### WESTERN UNION TELEGRAM

WASHINGTON, *June 7, 1919.*

S. JOHN BLOCK, 198 *Broadway, New York.*

Third assistant out of city your telegram will be brought to his attention when he returns.

BARROWS, Chief Clerk.

*Twenty-seventh:* On or about June 14, 1919, Mr. Block received a letter, dated June 11, 1919, from A. M. Dockery, Third Assistant Postmaster-General, referring to Mr. Block's telegram of June 7, 1919 and stating that the Third Assistant Postmaster-General would accord Mr. Block a hearing at Washington on June 20, 1919. Said letter reads as follows:

### POST OFFICE DEPARTMENT

THIRD ASSISTANT POSTMASTER-GENERAL, DIVISION OF  
CLASSIFICATION.

WASHINGTON, *June 11, 1919.*

Mr. S. JOHN BLOCK, 198 *Broadway, New York, N. Y.:*

SIR: With reference to your telegram of the 7th instant, desiring an interview with respect to the application for entry as second-class matter of the "New York Call," which came during my absence from the city, you are advised that I have just returned and will be pressed for time for a few days. However, I shall be glad to accord you a hearing at two o'clock on Friday, June 20, 1919.

Respectfully.

A. M. DOCKERY,

*Third Assistant Postmaster-General.*

*Twenty-eighth:* On June 14, 1919, Mr. Block sent a letter, dated June 14, 1919, to Mr. Dockery, acknowledging receipt of said letter of June 11th, stating that Mr. Block would prefer

to visit Mr. Dockery earlier than June 20th, and preferably on June 18th, if that would suit Mr. Dockery's convenience, and in said letter Mr. Block requested Mr. Dockery to appoint a time and notify Mr. Block by telegram collect. Said letter reads as follows:

NEW YORK, June 14th, 1919.

Hon. A. M. DOCKERY, *Third Assistant Postmaster-General, Post Office Department, Washington, D. C.:*

DEAR SIR: I have your letter of June 11th acknowledging receipt of my telegram of June 7th, in which I requested an interview in connection with the application of the New York Call for entry as second-class matter. I note that you will be glad to accord me a hearing at 2 o'clock on Friday, June 20th. If it will suit your convenience, however, I should prefer to visit you earlier in the week, preferably on Wednesday, June 18th, and I will be obliged to you if you will appoint a time and notify me by telegram, collect.

Appreciating your courtesy in the matter, I am

Very truly yours,

S. JOHN BLOCK.

*Twenty-ninth:* On June 16, 1919, Mr. Block received a telegram, dated June 16, 1919 from Mr. Dockery stating that Friday, June 20, 1919, was the earliest date on which he could give a hearing. Said telegram reads as follows:

#### WESTERN UNION TELEGRAM

WASHINGTON, June 10, 1919.

S. JOHN BLOCK, 198 Broadway, New York.

Friday twentieth instant is earliest date I can give you hearing.

DOCKERY,  
*Third Asst.*

*Thirtieth:* On June 20, 1919, Mr. Block, accompanied by Mr. Ervin, Editor of The New York Call, called at the office of Mr. Dockery at the Post Office Department at Washington, D. C. and informally discussed with Mr. Dockery and a Mr. Wood, who is also connected with the Post Office Department, the matter of The New York Call's application for second-class mailing rights

or privileges. The discussion lasted only a short time. In the course of said discussion Mr. Block reviewed the proceedings relative to the second-class mailing rights of The New York Call and stated that over five months had elapsed since the making of the application to the Postmaster in January, 1919. During said discussion the following colloquy took place, the quotations being substantially correct:

Mr. Block to Mr. Dockery.—“We would like to ask the Department to explain its silence in the matter. We think five months is a fair allowance of time for it to make up its mind.”

Mr. Wood.—“Is that all you have to tell us?”

Mr. Block.—“We think that is enough to justify us in asking why the Department has not acted on our application during the past five months.”

Mr. Dockery.—“I agree that five months is a pretty long time, but not too long. You see this is a very important matter and it requires time to reach a decision.”

Mr. Ervin.—“We thank you for the compliment, but our object is to get a decision.”

Mr. Wood.—“Well, is that all you have to tell us?”

Mr. Ervin.—“What more does the Department need to know before it can give a decision? We are here to give all the information you want from us.”

Mr. Wood.—“But, you know we did not ask you to come.”

Mr. Dockery.—“We are very glad to see you, however.”

Mr. Wood.—“And if you have anything more to say, we would like to hear it.”

Mr. Block.—“What more can there be to say? I have with me here all the correspondence containing the promises of the Department to give our application the proper consideration. In contrast to that we have five months of silence from this office. We do not think that silence shows very much consideration. In acknowledging receipt of our application, the Department asked for ten copies of the Call. We supplied them. Do you want us to supply anything else? What can we do to accelerate your decision? Can we expect an answer from you this week or next month or at any specified time in the future? That is what we have come to find out.”

Mr. Dockery.—How much circulation has the Call?”

Mr. Ervin gave him information concerning the circulation.

Mr. Dockery.—“Who owns the paper?”

Mr. Ervin.—“It is owned cooperatively and pays no profits to anyone. Its cooperators have just contributed \$150,000 to buy a new building and machinery.”

Mr. Block to Mr. Dockery.—“It would be a fine contribution to American freedom if you would set July 4th as the date for the Call to resume its place in the second-class mails.”

Mr. Dockery.—“I won’t be here on the 4th of July. I am going out to Missouri to deliver a speech to a regiment of boys just back from France, and they didn’t all come back either.”

Mr. Ervin.—“You would make a better speech on the 4th of July, Governor, if you would restore the Call to the mails before you go away.”

Mr. Wood.—“Is that all you have to tell us?”

Mr. Ervin.—“We have this to say, Mr. Wood. The Call has not changed its policy one bit since it was first barred from the mails and it is not going to change. We are criticizing public officials and we will continue to criticize them as long as they violate the right as we see it. We have no apologies to make and no new policies to adopt. The Call was established for a purpose. Its purpose is to criticize and do its share in changing the present system of society. We believe it is our constitutional right to do that. To this end we are criticizing institutions and officials. That is what its owners and readers expect of it and they do not want it to survive when it can no longer follow that course.”

Mr. Dockery.—“Well, I don’t mind telling you that these exclusions from the mails have been a very unpleasant task for me. The work has come to me from the solicitor’s office where all the cases originate and it is my duty under the law to handle them. But I will be very happy when there are no more of them.”

Mr. Block.—“You can get rid of the Call case very easily by restoring its second-class rights.”

Mr. Dockery.—“I will take the matter under consideration and let you know.”

Mr. Block.—“But we got that promise in writing five months ago. Can you not give us a date for a decision or must we conclude that no change is going to occur until the 4th of March, 1921?”

Mr. Dockery.—“I don't think it will take that long.”

*Thirty-first:* Since the date of said hearing or discussion at the office of Mr. Dockery on June 20, 1919 your petitioner has received no communication from the Postmaster of New York City, or from the Post Office Department at Washington, relative to any action taken with reference to your petitioner's application for second class mailing rights or privileges for The New York Call.

Nearly ten months have elapsed since said application was made and received by the Postmaster. Your petitioner believes that the delay on the part of the Postmaster and the Postmaster-General, the Third Assistant Postmaster-General, and any other officials concerned in the matter has been wanton and wilful and the entire course of conduct of the officials of the Post Office Department relative to the withdrawal of the second class mailing rights in 1917 and the refusal or failure to act upon said application which was filed on January 9, 1919 has been autocratic, discriminating, undemocratic, contrary to the letter and spirit of the laws of the United States and the constitution of the United States, and that such course of conduct has amounted to a persecution of The New York Call, which has always been and still is the organ of the Socialist Party, and of the labor movement. The New York Call has always openly and avowedly espoused the principles of Socialism and of radical changes in government and industry. At no time, however, in its history has The New York Call violated any laws or counseled or advocated the violation of laws. It has always advocated an orderly change in laws, political institutions and in the organization of industry.

*Thirty-second:* Not only has the New York Call and your petitioner never been charged with or prosecuted for or convicted of any offense, criminal or otherwise under the laws of the United States of America, or of any of its States and Territories, but its editors, managers and officers have also never been charged with or prosecuted for or convicted of any such offenses. Attention is particularly called to the fact that although the Post Office Department was of the opinion that a number of articles which ap-

peared in The New York Call were of such a nature as to require the withdrawal of the second-class mailing rights, the Post Office Department, nevertheless, knowingly permitted the issues of said papers containing said articles to circulate freely through the mails. Your petitioner submits and reiterates that none of said articles was improper or unlawful and that The New York Call has always complied with the requirements of the law entitling it to circulate through the mails as second class matter.

*Thirty-third:* The New York Call, through having been deprived of its second class mailing rights, has suffered heavy loss and irreparable and unascertainable damage. Its loss and damage conservatively estimated amounts to over two hundred thousand dollars (\$200,000), represented by lost subscriptions and lost opportunities for increase in circulation, lost advertising and lost opportunities for increased advertising. In this connection, your petitioner informs the court that all profits that have been or may be made through the publication of the New York Call have been and must be devoted, not to the personal gain of the members of the petitioner, but to the improvement and enlargement of The New York Call and to furthering the principles and interests of the Socialist movement, the Socialist party and the general labor movement.

*Thirty-fourth:* Your petitioner respectfully asks that its right to equal protection under the laws of the United States shall be recognized and that the Postmaster and the Post Office Department shall be ordered and required to respect and recognize that right, without prejudice and without autocratic and undemocratic discrimination.

*Thirty-fifth:* The statements hereinbefore contained as to the actions or conduct of persons other than the person who verifies this petition are made upon information and belief, such information having been given to said person by Raymond Wilcox, former business manager of The New York Call; by S. John Block, president of your petitioner and its attorney, and by Charles W. Ervin, managing editor of your petitioner's said publication The New York Call.

*Thirty-sixth:* Your petitioner is informed and verily believes that it has no other remedy at law by which redress may be had for the damage which it has sustained and may hereafter sustain, than the relief herein demanded.

Wherefore, your petitioner prays:

(1) That a writ of mandamus may issue out of and from this court directed to said Albert S. Burleson, Postmaster-General of the United States, commanding him to vacate, rescind and annul the order heretofore made by him or at his direction denying the use of the mails as second class matter to your petitioner for its said publication, and commanding him to admit or enter your petitioner's said publication *The New York Call* as second class mail matter, and hereafter to receive and accept the said publication and all copies thereof at the post office in the city of New York and to despatch through the mails all copies and issues of said publication as second class matter whenever so requested by your petitioner or your petitioner's officers, agents or employees, and commanding the said Albert S. Burleson, Postmaster-General of the United States, to issue and deliver to your petitioner such certificate or other document or writing as may be necessary or customary to indicate that the said publication has been entered at the post office, city of New York, as second class mail matter and entitled to circulate and be despatched through the United States mails as such second class mail matter; and requiring the said Albert S. Burleson to show cause why this court should not grant to the petitioner such other and further relief as may be just, proper, necessary or equitable in the premises;

(2) That a rule may be issued and served upon the said Albert S. Burleson, Postmaster-General of the United States, requiring him to appear before this court upon some certain date in said rule to be named, and to answer the premises and show cause why the prayer of this petitioner for the aforesaid relief should not be granted;

(3) For such other and further relief as your petitioner's cause may require.

Dated, New York, November 24, 1919.

THE WORKINGMEN'S CO-OPERATIVE  
PUBLISHING ASSOCIATION,

(Sgd.) By JULIUS GERBER,  
*Its Secretary.*

S. JOHN BLOOK,  
ALEXANDER WOLF,  
FULTON BRYLAWSKI,  
*Attorneys for Relator.*

STATE OF NEW YORK, }  
 COUNTY OF NEW YORK, } ss.:  
 City of New York, }

JULIUS GERBER, being first duly sworn, deposes and says: That he is the secretary of THE WORKINGMEN'S CO-OPERATIVE PUBLISHING ASSOCIATION, the petitioner in the within action; that THE WORKINGMEN'S PUBLISHING ASSOCIATION is a corporation and that he makes this verification on its behalf and has authority so to do; that he has read the foregoing petition and knows the contents thereof and that the same is true to his own knowledge except as to those matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

JULIUS GERBER.

Subscribed and sworn to before me this 24th day of November, 1919.

LILY SLUTSKY,

*Commissioner of Deeds, No. 619, New York City.*

Residing in the County of Kings. My commission expires January 21, 1921. New York County Clerk's certificate affixed to original.



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## **ASSEMBLYMEN'S EXHIBIT 3**

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**FEBRUARY 18, 1920**

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## **SOCIALISM SUMMED UP**

**By MORRIS HILLQUIT**

**Author of "Socialism in Theory and Practice," "History of Socialism  
in the United States," and Joint Author of "Social-  
ism: Promise or Menace."**

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**FIFTH REVISED EDITION**

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**PUBLISHED BY  
THE RAND SCHOOL OF SOCIAL SCIENCE  
7 EAST 15th STREET, NEW YORK CITY**

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# ASSEMBLYMEN'S EXHIBIT 3

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February 18, 1920

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## INTRODUCTION

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Charles The Fifth once said that the sun never set on his empire. "We Socialists may apply these words to our movement, and say that the sun never sets on the countries in which the red banner floats."

With these words the eloquent Belgian deputy, Emile Vandervelde, opened the International Socialist Congress, held in Stuttgart in 1907. It was not an empty boast. The Socialist movement is as wide as the world. In Europe its power is felt alike in the highly civilized central and northern countries, in autocratic Russia, in apathetic Spain and in the backward Balkan kingdoms. The "red specter" has invaded the Celestial empire, Persia and Japan; Transvaal and the Australian colonies; the South American republics and the Dominion of Canada. The United States is fast becoming a stronghold of the new doctrine.

The gospel of Socialism is preached in more than sixty tongues. Its creed is accepted by thirty million persons.

A movement of such magnitude and universality could not spring up without a cause, or continue without a mission. To scoff at it is futile. To ignore it is folly. It must be faced. It should be understood.

And Socialism can be understood very readily. Despite all assertions to the contrary, the mainsprings of the movement are quite obvious, its philosophy is exceedingly simple and its program is very definite.



# SOCIALISM SUMMED UP

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## CHAPTER I

### *The Causes that Make for Socialism*

Socialism is distinctly a modern movement. Contrary to prevailing notions, it has no connection, historical or intellectual, with the Utopias of Plato or More, or with the practices of the communistic sects of former ages.

The Socialist movement was called into life by economic conditions which have sprung up within very recent periods.

Its program is an attempted solution of the problems inherent in these conditions.

The cardinal demand of Socialism is the abolition of private ownership in the principal sources and instruments of wealth production, and there was practically no physical basis and no rational justification for such a demand before about the beginning of the nineteenth century.

As an illustration, let us take the economic condition of the United States in the early days of the republic. The main industry of the country was agriculture, and land was plentiful and accessible to all. The mechanical arts and crafts were practiced on a small scale, and on the basis of individual effort and use. Such tools as there were, were in the main hand tools, simple and inexpensive. The old-time mechanic could readily acquire them and ply his trade in his home or small workshop. It was not capital, but skill and knowledge that the worker required. As a rule, the apprentice or helper was not in a position of permanent dependence upon his employer. He was a pupil learning the trade from the "master," and as soon as he was equipped for the task, he could set up in business as an independent producer. His tool was his own, his skill was his own, and the finished product was his own in the moral as well as in the legal sense of the term. He relied on his individual efforts for his living. He had the means for earning his living always ready at hand. It is obvious that under such conditions no advantage could be gained from socializing the tool or from national or collective operation of the industries.

But within the last generations a silent revolution has taken place in our methods of producing and distributing wealth. The simple tool of the old-time mechanic has gradually evolved into the modern machine of wonderful complexness and gigantic dimensions, propelled by steam or electricity, and oftentimes doing the work of hundreds of human hands. The modest workshop of our grandfathers has grown into the immense modern factory under whose roof hundreds, sometimes thousands of workers are congregated for joint labor. Mass production, division of labor and specialization of functions have largely superseded individual effort, general efficiency and acquired skill in industry. The impersonal "market" has replaced the specific "customer." Production has become social in character, methods and object.

This economic evolution has brought about a most thoroughgoing change in the social conditions and relations of the people.

For the first time in history free producers found themselves divorced from the tools of their labor. The modern worker cannot revert to the simple tool of his forefathers. He must have access to the up-to-date plants, machinery and equipment. His entire social usefulness depends on that machinery. Without it he is an industrial cripple. But the individual worker cannot own the modern machine, and the workers collectively do not own it. The machines, factories and plants, the land, mines and railroads—in brief, all the modern sources and instruments of wealth production are owned and controlled by a class of persons other than the workers.

The most gruesome picture of physical and mental torture ever evolved by the human brain is probably the familiar fable of Tantalus. The victim of divine wrath stands in water up to his chin with the choicest fruit hanging over his head. He is maddened with thirst and hunger. He eagerly bends his parched lips to the cool and sweet water around him and stretches his trembling hand for the luscious fruit temptingly dangling before his eyes. But the water always recedes, the fruit always retreats, and Tantalus is left to starve amid plenty.

The morbid imagination of Greek antiquity has become a social and economic fact in modern America. Our country abounds with natural wealth. Millions of workers yearn for the necessities of life. The material for the production of these necessities is right around them. They are eager to make their food and clothing with their own toil. They have the requisite skill and ability.

But between them and their living stands the modern tool, the key to all wealth, and behind the tool stands the capitalist owner, with power to withhold its use from the people. In normal times about two million workers in this country are denied the right to work, and in times of acute industrial depression the number of "unemployed" mounts to five millions or more. Yet all that time the people need food and commodities, and are ready to produce them, and all that time the land abounds with raw material waiting for the magic touch of labor to be turned into consumable products. Our economic system condemns the worker to suffering and privation amid wealth and affluence.

With the loss of their tools the workers have lost their economic independence. They work and they live or they idle and starve according to the convenience of the powerful tool-owners. The reward of their industry is at best a mere subsistence wage. The fruits of their labor go largely to the possessor of the productive capital as an involuntary tax or license fee.

Thus modern society is split into two principal economic classes: the users of the machinery of production, who do not own it, and the owners, who do not use it; the employers and the employees, the capitalists and the workers, those who derive their income from "profits" and those who depend for their living on "wages." The classes are not fixed by law, but they are determined just as effectively by economic position, and as the modern industrial system is unfolding, they tend to become permanent and even hereditary. A lucky workingman or clerk may still occasionally be lifted into the coveted realms of wealth and power, but the probabilities of such a rise are not much greater than the proverbial chances of each soldier in the Napoleonic army to be advanced to the rank of field marshal. The vast mass of wage-earners are doomed to factory work for life, and their children are predestined factory hands. And similarly capitalism is rapidly becoming a hereditary status. The "self-made man," the pioneer of a new industry, is fast passing away. Modern wealth is largely in the hands of second or third generations. The gay heir who squanders his fortune and is reduced to the original poverty of his grandsires, become rarer, as the fortunes of the individual capitalists grow in bulk, and corporate management supersedes individual initiative.

It is not contended that the entire population is definitely divided into the two classes mentioned. There are, of course, the

more or less indefinite and undefinable economic groups, generally designated as the "middle classes," with all shades of special interests, but the main factors in modern industrial life are clearly represented by the two most pronounced types or classes — the capitalists and the wage-earners, the latter comprising all grades of hired manual and mental workers.

And there is war between and among the classes. War, sometimes overt and violent, sometimes concealed and even unconscious, but war nevertheless. The war is all the more intense and irrepressible because it springs not from personal hostility or accidental misunderstandings, but from ever-present organic economic antagonism.

There is war between employer and employee.

The employer is in business for profits. Industrial profits come from the work of the hired hand. The employee works for wages. Wages represent the product of his labor after deduction of the employer's profit. The larger the share of the profit, the smaller that of the wages. The employer must strive to maintain or increase his profits under penalty of industrial extermination. His personal views and feelings cannot alter the situation. The employee must strive to maintain or increase his wages under pain of physical destruction. His personal inclinations do not count. Sometimes this antagonism of interest expresses itself in petty bargaining and commonplace haggling, and at other times it assumes the form of violent conflicts: strikes, boycotts and riots, and on the other hand lockouts, black lists, injunctions and jails.

There is war between employer and employee.

Each capitalist controls a share of an industry. The greater the share, the larger is ordinarily his profits. His natural desire is to increase his share. He can do that only at the expense of his neighbor. Hence the mad industrial competition, the merciless rivalry for the "market," the mutual underbidding and underselling, the adulteration and falsification of commodities, the senseless speculative enterprises, and finally, wholesale failure and ruin.

There is war between worker and worker.

Modern machinery, although inherently of untold blessing to mankind, operates as a curse upon the toiler under the prevailing system of individual ownership. It does not lighten the burdens of the worker. It does not reduce his hours of labor — it displaces him from his employment. The marvelous productivity

of the machine creates the dread legions of jobless workers, the fierce competition for a chance to work and the consequent lowering of wages below the living standard.

The automatic, almost self-operating machine makes child and woman labor possible and profitable, and the children and wives of the workers are drafted into the field of industry in competition with their fathers and husbands. The more women and children are at work in the factories, the rarer become the opportunities for men to find work and the lower become their wages. Child and woman labor mean lower wages for man. Low wages for men mean more child and woman labor, and so the workers move forever in a vicious circle of misery and privation.

There is war between producer and user.

Business is conducted for profits. The larger the prices of the commodity or the higher the rate of service, the greater is ordinarily the profit of the capitalist. Hence the everlasting quarrels between the seller and buyer, the landlord and tenant, the carrier and passenger: the aggressive and inexorable "producer" and the pitiable "ultimate consumer."

The individualistic and competitive system of industry is a system of general social warfare, and ugly, brutal fight of all against all. It is a mad, embittered race for wealth or bread without plan or system, without pity or mercy. It has produced the abnormal type of the multi-millionaire with a hoard of material wealth enough to last thousands of families for countless generations to come, and the children of the slums succumbing for lack of the barest necessities of life. It operates through periods of feverish activity during which men, women and even children of tender age are worked to exhaustion, and periods of inactivity and depression during which millions of willing workers are forced into idleness and starvation.

The system of competition has not been without merit. It has organized industry, stimulated invention and increased human productivity a hundredfold. It has created vast wealth and evolved higher standards of life. It has broken down the barriers between countries and united all modern nations into one world-wide family of almost identical culture and civilization. It has played a most important and useful part in the history of human growth.

But sharing the fate of all other industrial systems, competition finally reaches a stage when its mission is accomplished

and its usefulness is outlived. Competition, which in its youth and vigor is "the life of trade," becomes in old age a plague and nuisance. In the long run it demoralizes the industrial life of the nation and exhausts and ruins the competitors themselves. At that point competition begins to yield, gradually but surely, to a new industrial form — combination. Then arises the modern business corporations, followed by trade agreements and pools, and finally by the trusts and monopolies.

The trusts are not the invention of ingenious financial manipulators, nor are they accidental and preventable evils. They are the inevitable culmination of the process of capitalist development, the mature fruit of the system of industrial individualism. They represent a superior and more efficient method of industrial management than competition, just as the modern machine is a superior and more efficient medium of industrial operation than the antiquated hand-tool.

The trusts are a powerful factor in the industrial life of the nation, and they modify the social conditions of the country both for the better and the worse. As large consolidations of capital operating in unison over the area of an entire industry or a considerable part of it, they tend to eliminate much of the chaos and anarchy of the competitive system. They have the power to regulate the supply of commodities in accord with the demand, to curb waste and overproduction and to diminish the evil of periodical industrial depression and financial crisis.

But the beneficial features of the trusts are more than balanced by the new evils which they breed. The trusts, like all other modern industrial institutions, are primarily conducted for the profits of their individual owners and promoters. They are therefore afflicted with all the vices of private capitalist ownership and management, and their tremendous powers intensify the evils. The trusts have developed the art of overcapitalization to a most audacious and alarming extent. Billions of dollars of their watered "securities" are afloat in this country, and the workers pay an annual tribute of hundreds of millions to the holders of this paper in the shape of interest and dividends. It is practically a blanket mortgage which the trusts thus hold on the people of the United States and upon the products of the toil of generations of Americans yet unborn.

The trusts are the most important and sometimes the sole employers of labor in their industries. Hence they have practically absolute power to dictate the terms of employment to their

workers. Most trustified industries are characterized by long hours, miserable wages and general ill-treatment of the employees.

The trusts, as complete or practical monopolies, also have the power to arbitrarily fix the prices of commodities. In most trustified industries the prices of goods or charges for services have increased enormously notwithstanding the great economies in production. The trusts are largely the cause of the vexatious new problems familiarly and intimately known as "the high cost of living."

But more baneful even than the economic evils of the trusts are their corrupting effects on the public and political life of the country—their notorious influence on the dominant political parties, the government, legislatures and judiciary, and their control of the public press. The trusts are a most serious menace to democracy.

Thus capitalist management of the industries, both competitive and trustified, has produced most of the social maladies of our day and generation.

It has divided the people into classes with antagonistic economic interests and has bred class struggles and class hatred.

It has placed inordinate wealth and power in the hands of the few, and has reduced the many to a state of drudgery and poverty.

It has cast out of the active industrial life of the nation millions of willing and able workers and has driven them into shiftlessness, vice and crime.

It has brought uncertainty and misery to all classes of the people, and happiness to none.

The wage-earner is not the only one to suffer from the consequences of capitalistic mismanagement.

For the small merchant or manufacturer, placed between the nether millstone of competition with his own kind and the upper millstone of powerful industrial combinations, business is an embittered and pitiful struggle. He fights hard to maintain his industrial independence, but it is a losing fight against the superior force of irresistible and immutable economic development. His fate is sealed. It is only a question of time when he will find his abiding place in the service of the trust or in the ranks of propertyless wage labor.

The precarious status of the small business man drives his sons and daughters in ever greater numbers into the liberal professions. The latter becomes congested in the extreme, unregulated, uncertain and unremunerative. The professional classes have their

armies of unemployed or partly unemployed substantially to the same extent as the wage-workers. The "intellectual proletariat" is not much better situated than the proletariat of the manual variety.

The farmer is dominated, controlled and exploited by the power of capitalism just as much as the other producing classes. By means of mortgages, railroad freight rates, elevator and storage charges and prices of monopolistically produced farm implements and machinery, the capitalists manage to appropriate the lion's share of his labor as effectively, though not quite as directly, as that of the hired factory hand.

And even the capitalist, the sole beneficiary of the modern industrial system, does not always lead a life of joy, leisure and mental repose. The active capitalist is driven by the system more than he is driving it. He is the slave as well as the master of his wealth.

No individual or class of individuals can be held responsible for this general social unhappiness. The average capitalist is inherently as good as the average worker. The average worker is by nature no better than the average capitalist. The ills of our society are the direct and inevitable results of a system that allows one group of persons to own the tools which are indispensable to the lives of all persons, and thus makes the few the absolute masters of the many. So long as this system endures, no individual can escape from its toils. The industrial juggernaut places each man in his position and assigns to him his part. He toils or he loafes, he robs or is robbed, according to his place in the general industrial scheme. Moral sermons and abstract social ethics are helpless against this situation, and the political reformers who attempt to remove the effects of the baneful system without grasping its substance or attacking its foundation are ludicrously ineffective. The evil outgrowths of the capitalist system can only be cured by the removal of its main source and cause — the private ownership of the social tools of wealth production.

The operation of industries as a social function upon a rational and scientific basis is alone capable of doing away with the two greatest scourges of modern civilization — class war and poverty.

Class divisions have always existed in the recorded history of the human race. But advancing civilization has gradually abolished all privileges based on birth and caste, and it has been left to the capitalist system of production to evolve a new form of

economic classes based on the relation to the ownership of the tools of production.

The Socialists do not exult in the existence of classes and class struggles, and do not "preach" class hatred. They merely point out the obvious fact of economic classes and class antagonism. It is no more reasonable to charge the "Socialist agitator" with fomenting class wars than it would be to hold the meteorologist responsible for storms. As a matter of fact, the Socialist movement is the only organized force in modern society which consciously seeks to abolish all class divisions and class struggles.

Poverty, as such, is of course also not a new and specifically capitalistic phenomenon. The poor have always been with us. But the poverty of former eras was an unavoidable evil due to the simple fact that man had not yet learned to produce a sufficient supply of necessities by means of proper tools. Modern poverty is entirely artificial and wholly unnecessary. The marvelous growth of the productivity of labor within the last generations has enabled mankind for the first time in history to produce enough to satisfy all reasonable needs of all reasonable human beings. The mass-poverty of today is due solely to irrational and faulty industrial organization.

## CHAPTER II

### *The Socialist Aim*

The Socialist demands that the principal industries of the nation, the business of providing the necessities of life, be conducted by the community for the benefit of its members.

The fundamental principle upon which society rests today is that wealth production is purely an individual function. Our industries are not organized by the people with a view to the needs of the community, but by individual capitalists for private profits. Our enterprising captains of industry care little for the social value of the goods they produce. They will manufacture Bibles or guns, medicine or poison, ploughs or flying-machines, all according to the prospects of gain.

The fact that more than ninety millions of their fellow-beings in this country need food, clothing, houses, furniture, heat, light, books, amusement and means of transportation and communication to maintain their health and comfort, means nothing to them in itself — it is merely their opportunity to extract profits.

Socialism would substitute the prevailing method of private enterprise for individual profit by a system of social production for collective use.

We would not leave our political destinies in the hands of a self-constituted oligarchy with power to use the government of the United States for their individual ends without regard to the popular will or public needs, but that is precisely what we are doing with our more vital economic interests.

As democracy means political self-government, so Socialism calls for industrial self-government.

Stated in more concrete terms, the Socialist program requires the public or collective ownership and operation of the principal instruments and agencies for the production and distribution of wealth — the land, mines, railroads, steamboats, telegraph and telephone lines, mills, factories and modern machinery.

This is the main program and the ultimate aim of the whole Socialist movement and the political creed of all Socialists. It is the unailing test of Socialist adherence, and admits of no limitation, extension or variation. Whoever accepts this program is a Socialist, whoever does not, is not.

Individual Socialists may differ in their general social conceptions. They may come to the Socialist ideal by various roads. They may disagree with each other on questions of methods. But they are all in accord on the main object of the movement. The common complaint about the "numerous varieties of Socialism" springs from a superficial knowledge of the Socialist philosophy. As a matter of fact, no political party has ever advanced a social program as definite, consistent and uniform as that of international Socialism.

But simple as is the Socialist program, it signifies a revolution in our industrial life and social relations. It advocates a new order. Hence it is bound to be maligned by the beneficiaries of the present régime and misunderstood by the conservative multitude.

It is safe to assert that no other movement has ever been so grossly and persistently misinterpreted. A closer analysis of the program as here formulated will help to dispel some of the most common misconceptions.

As has been stated, Socialism demands the collective ownership of the instruments of wealth production. This demand is often translated by the critics of the movement into the unceremonious formula: "Socialism stands for a division of wealth." The chan-

cellor of one of our metropolitan universities recently spent his well-earned vacation on the other side of the Atlantic, and on that occasion was received in audience by King Haakon, then just called to the newly created or vacated throne of Norway. On his return to this country the learned chancellor in a published interview expressed his admiration of the intelligence and sound common sense of the young ruler. As evidence of these commendable qualities, the professor related the following conversation between himself and his majesty (I quote from memory): "What progress is Socialism making in your country?" inquired the American savant. "Oh, it is growing some," observed the king, "but it is not a serious menace. Socialism is bound to fail because of the utter silliness of its program. Suppose we should to-day divide the wealth of Norway equally among all inhabitants. An hour after the process a new baby is born. What then? Should we proceed to a new redistribution, or should the baby be left entirely destitute?" Both his majesty and our chancellor agreed that Socialism put the baby, and the baby put Socialism, into a most awkward predicament. By one simple hypothesis two great minds had once more destroyed a Socialist ghost of their own creation to the entire satisfaction of themselves.

Socialism, of course, does not advocate a division of wealth. The Socialist program does not deal with consumable wealth, but with productive wealth; it does not assail wealth as a means of private enjoyment, but wealth as an instrument of social oppression and exploitation. The Socialist would socialize the tools of production, not the products.

They view with placid indifference the private ownership of dwelling houses and gowns, automobiles and yachts. They do not even covet the innocent individual tool, and do not reach out an avaricious hand for the artist's paint brush or the housewife's needle or sewing machine. What they object to is the individual ownership of *social* instruments of work, the sources or implements of general wealth, operated by the masses, producing goods for the "market," and indispensable to the life and well-being of society as a whole.

And even within this restricted area the Socialist plan is not one of division or distribution, but, on the contrary, one of common and undivided ownership. The principle may be illustrated by comparison with the functions and character of our public streets. The streets are the common or public property of our

cities. They are laid out, paved and repaired at public expense. They are maintained for our joint use and benefit. We all own them. But we do not divide up the cobblestones ratably among all citizens.

And similarly unfounded is the widespread notion that Socialism stands for equal reward of all labor. Socialism is opposed to the practice of allowing the idlers to appropriate part of the workers' product in the shape of profits. It demands that the total social product, after due allowance for social needs, go uncurtailed to all persons participating in the process of production by manual or mental labor. But it does not contemplate an equal distribution of the product among the individual workers. Socialism admits of reasonable variations in the scale of compensation based on the conventional distinctions of effort, skill and ability. The oft-expressed fear that a Socialist system of production would destroy personal ambition and deprive the individual of an incentive to put forth his best efforts, is based on a confusion between the crude communism which preaches community of goods and equality of reward, and Socialism which has not the remotest kinship with it.

Another source of persistent misinterpretation lurks in the term "public" or "collective" ownership as used in the formulation of the Socialist program. The superficial critics of the Socialist philosophy invariably identify that expression with "government ownership," and thence jump at the conclusion that the Socialists contemplate a state of society in which all industries of the country, large and small, will be operated and directed from one great national center. This is the origin and foundation of the bugaboo of "Socialist paternalism and tyranny."

Not so long ago, Mr. David M. Parry, one-time president of the National Manufacturers' Association, wrote a novel entitled "The Scarlet Empire," and mainly centering around a description of "the Socialist state" as the author conceived it. It was a horrible state. Governmental regulation was the rule in all private and public pursuits of the citizens. The government fixed the occupation of each person, prepared a uniform menu for all inhabitants from day to day, prescribed the fashion, cut and pattern of their dress, and regulated their routine of daily life, their religion, marriages and amusements. It was a reign of relentless tyranny, a life of insufferable uniformity and monotony. Mr. Parry had set himself the task of conjuring a picture of an

order of society even more oppressive than our present regime, and he almost succeeded.

The book was intended as a satire on the Socialist ideal. If the genial author could only appreciate what a delightful satire he had unconsciously produced on the mental caliber of a certain class of critics of the Socialist philosophy!

Public ownership does not necessarily mean government ownership, and government ownership does not imply centralized administration. In the practical application of the Socialist scheme of industrial organization, it is quite conceivable that certain industries would be operated by the national government. Railroad systems, telegraph and telephone lines are inherently national in their functions, and many other industries are already organized on a country-wide scale and adjusted to centralized operations. To the latter class belong all great trustified industries. On the other hand, other important industries are purely local in their character, and can best be administered by local governmental agencies. Street railways, water and gas works, for instance, must logically come within the purview of municipal governments, and numerous smaller industries may be conducted by local co-operative groups under appropriate rules and regulations. It is **even conceivable** that some callings may continue to be exercised in a purely individual way under a Socialist regime. There is no reason why the state should interfere with individual pursuits of arts and handicraft or with the farmer personally cultivating his farm. What Socialism opposes is industrial exploitation of one man by another; what it advocates is social and democratic production rationally organized and conducted.

A very illuminating analogy of such a scheme of organization is offered by the political framework of the government of the United States. Our laws are made and administered by "the government," but does that mean that the political administration of the country in all its divisions and subdivisions is lodged in the hands of one central authority? By no means. We have our federal statutes, our state laws, municipal ordinances and rules and regulations of subordinate local bodies, such as health boards, fire and police departments, etc. Each class of laws operates within its own proper sphere, and is administered by executive bodies or individuals elected or appointed and classified and graded according to their functions and places in the general administrative scheme. The political functions of the country are

not exercised by a power above the people and independent of them, nor are they regulated in all particulars and at all times by the direct action of all the people. Our government is neither a bureaucracy nor a system of mob rule. In its purest form it is a rational democracy, which allows its affairs to be administered by appropriate general and local agencies, deriving their powers from the people and exercising them in conformity with their will. Our official government furthermore is supplemented by a number of voluntary "quasi-official" institutions, philanthropic, educational, political, etc., whose powers and functions are as a rule regulated by law. We do not allow such voluntary institutions to exercise vital political powers affecting the rights of the citizens, but we do not interfere with their self-imposed social tasks so long as they only concern those who choose to come within the sphere of their operations. The Socialists demand that our industrial affairs be reorganized on practically the same general principles as our political system.

It is quite conceivable and even probable that our present machinery of government, devised for purely political purposes, would prove inadequate for the discharge of large economic functions. In that case it would either gradually modify its forms to meet the requirements of the new tasks or be supplemented by a co-ordinate system of industrial administration.

"But then the industries of the country would be controlled by the politicians and infested with graft and corruption," objects the ever ready critic. The Socialists see no ground for such apprehension. The "professional politician," in the opprobrious sense of the term, as we know him to-day, is a person who seeks private economic advantages in public life, and uses his political office or influence for the promotion of his own pecuniary profits or those of certain business interests behind him. Graft and corruption are the only logical methods and the principal stock in trade of such "statesmen."

Socialized industries would exclude all large private business interests, and thus strike at the very root of professional politics for private gain and the main fountain-head of wholesale graft and corruption.

The Socialist program is thus primarily one of economic reform. It is not directly concerned with religious or domestic institutions, moral conceptions or intellectual problems. It does not "threaten the home" or "attack religion," and is not hostile to true modern culture. It advocates a definite plan of industrial

reorganization and is chargeable with all that is fairly inferable from that plan, but no more.

Socialism has for that reason sometimes been characterized as a grossly materialistic movement. It is anything but that. The Socialists appreciate very keenly all efficient political, social and moral reforms. But they expect such reforms to follow economic improvements as the effect follows the cause. The common ownership of the sources and instruments of wealth production would necessarily mean a more equitable distribution of wealth among the people and greater economic security for all human beings. It would thus do away with the mad competitive struggle for individual gain, and would remove the principal cause of civic and political corruption, crime, vice, brutality and ignorance. Just because the Socialist movement is based on a solid and sound economic foundation, it holds out a true social ideal.

### CHAPTER III

#### *The Trend of Social Development*

In the Socialist conception economic systems and political institutions are not immutable forms. They are products of gradual growth and subject to incessant change. The present system of industry has not been consciously planned and devised by cunning capitalist minds. It has evolved from an older economic order by a series of imperceptible changes, accumulating steadily and irresistibly through several centuries. The feudal régime, which preceded the modern or capitalist order, had its economic root in agriculture, and was characterized by serfdom of labor and the rule of the land-owning nobles. Slowly and gradually commerce and manufacture grew up alongside of the predominant industry of agriculture. The discovery of America and of a sea route to the Indies and the introduction and perfection of the mariner's compass gave a tremendous impetus to navigation and trading, and trading stimulated manufacture. The growth of commerce and manufacture engendered a general search for labor-saving devices, and led to the era of epoch-making industrial inventions. The latter half of the eighteenth century witnessed the appearance of the first great mechanical devices in industry. Hargreave's spinning jenny, Arkwright's mill, Cartwright's power-loom, Watt's engine and Whitney's cotton gin were all invented within the brief period of 1704-1792, and railways were in operation within the first quarter of the last century. These inventions in turn served to unfold trade and manufacture in ever-accelerating measure. Factories were built and

lured the farm laborers. Cities were founded and attracted the rural population. Merchants and manufacturers amassed fortunes, and with material wealth came social recognition and political power. Towards the beginning of the eighteenth century commerce and manufacture had grown to be serious rivals to agriculture. The traders and manufacturers, the incipient modern capitalists, engaged in a contest for political supremacy with the landed nobility. Towards the end of the century the great social conflict was fought out. Agriculture receded to the background, yielding the command of the economic world-forces to manufacture, commerce and finance. Feudalism was dethroned by triumphant capitalism. Government passed from the lord of the manor to the autocrat of the factory, shop and counting-room, from the aristocracy of birth to the aristocracy of the purse. With the passing of the old economic régime, its political counterpart, the feudal form of government, was discarded, and a new political dress, adjusted to the strong and growing limbs and the free and rapid movements of the new economic body, was devised.

The countless miniature kingdoms and principalities were consolidated into large nations following the transformation of the small workshops for local trade into big factories for the national market. Autocratic monarchies were supplanted by constitutional kingdoms or republics, as the absolute rule of the feudal lord in his domain yielded to the business contract in the new economic order. Courts and court cliques were succeeded by parliaments and chosen representatives, as the hereditary noble was replaced by the "self-made" man of affairs. The "will of the king," the basis of the feudal political order, was displaced by the controlling political principle of "popular liberty," reflecting the triumph of free competition in industry over the crystallized, localized forms of medieval agriculture and the absolute rule of the feudal lord over his manor.

Thus the modern or capitalist order of society, economic, political and social evolved gradually within the loins of the feudal order, and is in turn bound to give birth to a new social order. For every economic or social system of society is good only for limited time. History assigns a certain role to it, and when its part is played and its task performed, the curtain of the ages opens upon the next act in the eternal drama of human progress. The feudal régime in its very bloom contained the germs of the capitalist system, and capitalism even today germinates a new and superior social order — Socialism.

Socialism, as an economic and political principle, had begun to grow within the very heart of capitalist society generations ago, and today it has already attained to a respectable size.

The gentlemen who so learnedly assure us of the "impracticability" or "impossibility" of Socialism, take the same enlightened stand as the familiar lad in the menagerie, who, after critically examining the eccentricities of form of the giraffe, judiciously announces, "There ain't no such animal." We are at least ankle-deep in Socialism already, and it is not improbable that the future historian will date the beginnings of the Socialist régime from, say, the middle of the last century, just as we are now placing the beginnings of the capitalist era a century or more back of the great French Revolution.

It is not difficult to discern the Socialist germs in present society.

The capitalist order was in its inception based almost entirely on the principles of individual effort in production and unrestricted competition in the management of industries. The individualistic *laissez faire* doctrine which was proclaimed by the founders of the "classical" school of economics, was but the academic reflection of the convictions, sentiment and, it may be added, interests of the capitalist class in its bloom. This doctrine, which holds that all industrial needs and relations are adjusted automatically by the free play of the forces of supply and demand, without interference or regulation, has gained such universal currency that it dominates the average mind even today. The orthodox lecturer or text-book writer on political economy is still earnestly discussing the merits of individual enterprise as against collective action and the advantages of competition over combination. He stubbornly refuses to notice that the mute forces of economic development, unconcerned by his learned theories and abstractions, have nullified the very basis of his argument, and are rapidly destroying individual effort and competition in industry. It always has been the privilege of our men of learning to live in the thoughts and conditions of past ages.

The modern factories, mines, railroads and other great industrial enterprises are co-operative institutions in their work and methods of production. Perfected machinery and division of labor have entirely obliterated the individuality of the worker's product. The individual worker in modern up-to-date industries does not produce consumable commodities or render usable service.

He creates particles and performs fractional operations, useless and meaningless by themselves and acquiring value and significance only in conjunction with other fractional products created by his fellow workers. Production has developed into a distinctly social process — the collective efforts of the workers sustain our modern industries — their individual efforts, standing alone, count for nothing. And similarly with the principle of competition in the management of industries. The entire trend of modern economic development has been away from competition and towards combination. The true meaning of the great trust movement of the last generation is just this simple fact, that competition has become inadequate and incompatible with the modern large-scale industry, and must yield to combination. Probably one-half of our staple commodities are to-day produced and marketed without competition, and it is only a question of a short time when combination will become the absolute rule in industry.

It is not contended that factories or trusts are instalments of the Socialist commonwealth. Under their present system of private and capitalistic ownership they are anything but that. But what the Socialists claim is that both factories and trusts, represent a distinct tendency towards co-operation in industry and are developing the material basis for a Socialist form of industrial organization.

In the domain of modern politics and legislation the socialistic tendencies have been even more pronounced than in the industrial field.

The modern industrial state came into existence as a protest against the excessive centralization and paternalism of the feudal state. It was organized on the principle of non-interference with the affairs of the citizens. It proclaimed the doctrine that that state governs best which governs least, and it tried to govern as little as possible, leaving it to the citizens of all conditions, ages and sexes to fight their own battles. "Administrative Nihilism," to borrow an expression from Huxley, was the rule of politics and legislation just as *laissez faire* was the law of industry.

These conceptions of the functions of the state and legislation probably had some justification in the early phases of our era, when the social contrasts were not very marked, and the opportunities were abundant for all men.

But when the unprecedented economic development of the last generations began to divide the population of every advanced

country into distinct economic classes, the working class devoid of property and opportunity and dependent for the very right to live upon the powerful capitalist class, the owners of all national industries; when the struggle for existence became an unequal, cruel war between the weak and the strong, the principle of non-interference by state and legislation lost its justification. Gradually and steadily the government assumed the task of protecting its helpless and defenseless members from the oppression of their powerful and inconsiderate fellow men. Gradually it also began to realize that the work of providing food, clothing, shelter and other necessities for the population is not an individual task, but a social function. The state and the legislatures have openly invaded the domain of "private" industry, and they claim the right to exercise control over it.

When in 1802 Sir Robert Peel introduced in the British Parliament the first bill for the regulation of the labor of apprenticed children, it was denounced as revolutionary, and dire disasters were predicted from its adoption. The measure was called forth by the inhuman conditions in the English cotton mills to which thousands of orphaned and pauper children of the most tender ages were bound out by the parishes. The unfortunate children were forced to work practically without interruption, and when they dropped from exhaustion they would be carried to the crowded, pent-up and filthy barracks adjoining the mills. They were allowed to rest until taken to work again early on the following morning. They were growing up under conditions of physical, mental and moral degeneracy, a menace to the future laboring population of England. The Peel Bill provided for some restriction upon this heartless exploitation. It was opposed by the liberal statesmen of England as an attempted legislative invasion of the rights of the working children. The measure was finally passed under the pretext that it was a mere amendment of the old Elizabethan "Apprenticeship Act." But its passage marked the doom of the individualistic doctrine in politics and legislation. It established the principle of state protection for the working class. In England the law of 1802 was followed first by the timid amendments of 1819, 1825 and 1833, then by the more radical enactments of the latter half of the last century. Starting with the regulation of apprenticed children, it soon extended its operation to the "free" working children, then to the working women and finally to all workers. From England the principle of factory legislation spread to the United States, Ger-

many, France and Switzerland, and gradually it established itself in all industrial countries.

Almost forty years ago, Prince Bismarck, Germany's "Iron" Chancellor, proclaimed the duty of the state to take care of its disabled, sick and aged workmen, the veterans and invalids of the modern industrial warfare. Germany introduced the system of state insurance for workmen against accidents, sickness and disability and old age pensions, and its example was soon followed by all advanced countries of Europe and Australia.

Within the last generations the legislatures of all countries have begun to supervise and regulate the most vital branches of business, the slaughter houses and bakeries, the railroads and steamships, banking and insurance, and many industries of a similar character. They prescribe the conditions upon which these industries may exist and operate, and they interfere actively and directly in the management of "their" affairs. The legislature goes even farther — it undertakes to limit the individual wealth of its citizens by the enactment of laws for progressive income, inheritance and other taxes.

The United States is the only civilized country in the world which does not provide through government channels for its aged or disabled workers. But even American conservatism is visibly beginning to surrender to the irresistible forces of universal social progress. Almost all the industrial states of the Union have introduced or are planning at least some forms of workmen's compensation or state labor insurance, and most states have established progressive income and inheritance tax laws. In other domains of social legislation the United States does not lag much behind the countries of Europe. We have our labor laws, inadequate as they are, our anti-combination acts, interstate commerce commission, public service commissions and state control and regulation in numerous industries.

These political measures and institutions are no more to be considered as an earnest of the Socialist state than the factories and trusts as partial realizations of the Socialist economic system, but like them they are of immense symptomatic importance.

The modern principle of control and regulation of industries by the government indicates the complete collapse of the purely capitalist ideal of non-interference, and signifies that the government may change from an instrument of class rule and exploitation into one of social regulation and protection. Like the industries, the government is becoming socialized. The general tendency of both is distinctly towards a Socialist order.

## CHAPTER IV

*The Methods of Socialism*

The Socialist conception of industrial and political evolution as sketched in the preceding chapter, has been variously characterized by critics of the movement as a "Philosophy of Fatalism" or as "Political Calvinism." The mistake underlying this criticism is the notion that the Socialists expect the final realization of their social ideal to come about automatically through the unconscious workings of the inherent forces of social development. As a matter of fact, the Socialists are very far from harboring any such illusion. They hold that no system can be radically changed until it is ripe for the transformation, and they consider the degree of development of every country of prime importance in determining whether it offers fertile ground for the success of Socialism. But they realize that the mere maturity of a country for the Socialist regime will not produce Socialism without conscious, planned and deliberate action on the part of such portion of the people as have the desire, power and sagacity to accomplish the concrete task of the socialization of the industries and the reorganization of our government to that end. If we attempt to grow oranges, we must first make sure that we have selected the proper soil and climate, but the soil and climate will not produce oranges unless we sow the seed and tend, care for, and aid the plant during all the stages of its growth. Or to take an historic illustration. The ruling classes of to-day, the capitalists, could not and did not gain political supremacy until they had attained economic ascendancy, but when that point was reached their actual political victories were brought about by the propaganda of their writers and speakers, the French Encyclopedists, the English Rationalists, Utilitarians, etc., by the work of their leaders and statesmen, and above all, by the organizations of their class and its supporters.

The introduction of the Socialist regime depends on two main conditions:

First: The economic situation of the country must be ripe for the change.

Second: The people of the country must be ready for it.

The first condition takes care of itself. The task of the Socialist movement is to bring about the second condition, and it is this aim which determines the methods and the practical program of the movement.

Whether the Socialist order is to be ushered in by a revolutionary decree, or by a series of legislative enactments or executive proclamations, it can be established and maintained only by the people in control of the country. In other words, Socialism, like any other national political program, can be realized only when its adherents, sympathizers and supporters, are numerous enough to wrest the machinery of government from their opponents, and to use it for the realization of their program. The only previous time in the history of the United States that the country could boast of a political party with a social program was when the Republican Party was first organized for the abolition of slavery, and that program was not realized until the party was strong enough to win a national election. The Civil War does not alter this cardinal fact. It simply meant that the minority was not ready to give up without a fight, but if the abolitionists had not been in control of the government there would obviously be no provocation for the fight and no chance for the victory.

Experience has demonstrated that as soon as the Socialist Party develops menacing political strength, all non-Socialist parties combine against it. Milwaukee is not the only illustration of this tendency. The same practice has been followed in all countries of Europe in which the Socialist movement is an important political factor, and will in time undoubtedly become the accepted rule in the United States. To be victorious, the Socialists will, therefore, in all likelihood require an absolute majority of the voters and the population. Not necessarily an absolute majority of trained Social thinkers and workers, but a majority of persons generally ready to cast their fortunes with the Socialist movement.

The first task of the Socialist movement is thus to increase the number of Socialists, to convert the people to the Socialist creed. Socialism is primarily a movement of education and propaganda. The Socialist propaganda does not originate from a mere desire to spread the truth—for the benefit of the unconverted, as the Christian propaganda is inspired by a general ethical zeal to save the souls of the heathen. The Socialist propaganda is the very life-nerve of the movement. Upon its success or failure depends the destiny of Socialism. The educational and propagandist activities dominate all other forms of organized Socialist work, and none but the closest observers can appreciate the gigantic accomplishments of the movement in this field.

In the Presidential campaign of 1916 the National Campaign Committee of the Socialist Party printed and circulated about

fifteen millions of pamphlets. The numerous state and local organizations of the party at the same time printed and distributed at least an equal number of pamphlets or leaflets, and thus no less than thirty million pieces of Socialist literature were given to the people of this country to read and study within the two months preceding the election. But the Socialist propaganda is by no means limited to campaigns. The dissemination of Socialist literature goes on steadily and systematically, though on a smaller scale, every day of the year, and it is not confined to pamphleteering. The Socialist Party in this country is supported by numerous periodical publications: daily and weekly newspapers and monthly magazines. Every language of any importance spoken in this country is represented in the Socialist press. Some of the Socialist publications count their circulation by hundreds of thousands, and all of them are primarily given to propaganda. Unlike the ordinary press, their political creed is not a mere incident to them — it is the entire object and reason for their existence. They are published to preach Socialism; every other consideration is subordinated to that purpose.

And side by side with the propaganda of the printed word goes the equally effective oral propaganda. The Socialist Party has 100,000 dues-paying members, and almost every one of these is an ardent propagandist. If he is not blessed with the gift of public oratory, he talks Socialism at his home, in his shop, in his union, in his club or saloon. Thousands of meetings are held every year in all parts of the country — public demonstrations, campaign meetings, debates or lectures, and all of them deal with the one paramount topic — Socialism.

And with all that it must be borne in mind that the Socialist movement is only beginning to gain a foothold in this country. Its educational and propaganda work is tame compared with the accomplishment of the older and stronger Socialist movements in the countries of Europe. The work of Socialist education all over the world is probably the most active intellectual factor operating in modern society.

The Socialists do not address themselves to an indiscriminate audience. They realize that their program does not appeal with equal force to all classes of the people. Socialism aims at the destruction of all economic privileges and all class rule. The Socialists contend that the realization of their program will ultimately benefit the entire human race, but they fully and frankly

recognize that its immediate effects will be damaging to the beneficiaries of the present order and advantageous to its victims. In other words, Socialism necessarily involves an immediate material loss to the capitalist classes — and a corresponding gain to the working classes. The Socialists, therefore, make their appeal primarily to the workers. They do not disdain the support of men and women from the more privileged classes. A rather considerable proportion of active Socialists has always been recruited from the ranks of non-workers. But numerous as these cases may be, they are still exceptions to the rule. An individual may be guided by purely ethical motives and rise above his material advantages, but economic classes as such are always moved by their immediate interests. The capitalist revolution was organized and led by the capitalists, although a number of nobles inspired by the new spirit of “liberty and democracy,” made common cause with the enemies of their own class.

Nor are the Socialist activities confined to the work of propaganda. Modern Socialists do not expect the Socialist order to be introduced by one sudden and great political cataclysm, nor do they expect it to be established by a rabble made desperate by misery and starvation. The Socialists expect that the co-operative commonwealth will be planfully built by an intelligent and disciplined working class, thoroughly organized, well trained, and fully qualified to assume the reins of government and the management of the industries. Next to the education of the workers in the philosophy of Socialism, the prime task of the Socialist movement is, therefore, their political and economic organization. The Socialist movement of each country presents itself primarily as a political party, the party of the working class. Like all other political parties, the Socialist Party nominates candidates and strives to win elections and to pass legislative measures, but unlike other parties it attributes but slight importance to such temporary political victories. The deeper objects of Socialist politics are: (1) To make propaganda for the cause of Socialism, for which political campaigns always offer favorable opportunities. (2) To acquaint the workers with the concrete political problems of the country and to educate them in practical politics. (3) To gain representation in the legislatures and in executive offices in order to secure true reforms for the workers, to train them in the art of statesmanship and to afford them larger opportunities for propaganda. (4) To wean the workers

from the influence of the old parties, to develop their political independence and class consciousness and to organize them for the final practical task of the Socialist movement — the winning of the government by the workers.

This view accounts for the seeming peculiarities of Socialist politics — the insistence of the Socialist Party in nominating full tickets even where its candidates have not the remotest chance of election, and its obstinate refusal to combine with any other party for any purpose. For the ultimate aim of Socialism the clearness, integrity and purity of the movement mean more than office or temporary political success.

In the Socialist conception, politics is only a means to an end. Temporary and local political power is valuable, mainly as affording an opportunity for economic reform, and the final national political victory of the workers will be of vital importance only as a necessary preliminary to the introduction of the system of collective and cooperative industries. A general political victory of the workers would be barren of results if the workers were not at the same time prepared to take over the management of the industries. The Socialists therefore seek to train the workers in economic no less than in political self-government.

It is for that reason that the movement everywhere seeks alliance with the economic organizations of labor, the trade-unions and the co-operative societies.

The trade and labor-unions are an efficient instrument for the organization of the productive forces of industry; the co-operative movement trains the workers in the independent, collective management of industrial processes. The Socialists are ever active in the organization of trade-unions and co-operative workingmen's societies and in the support of their works and struggles. In Germany, Austria and other countries in which the Socialist movement antedated the economic organizations of labor, the latter largely owe their existence to the Socialists. In Belgium and the Scandinavian countries the Socialist Party, trade-unions and co-operative societies are almost organically united. In the English-speaking countries, in which the beginning of the Socialist movement found the economic organizations of labor fully established, the Socialists bend every effort to bring about a friendly understanding with them and a policy of mutual support. The Socialist activities in the economic organizations of labor are not mere meddling or political flirtation. They are

an organic part of the practical work of the Socialist Party. Socialism, trade-unionism and the co-operative movement are but different phases of the general modern labor movement. Within their respective spheres all of them, consciously or unconsciously, make for the same goal, and each of them gains strength and efficacy from the support of the others.

The struggles of labor have besides another deep social significance for the Socialists. Every material improvement in the workers' lives tends to raise their intellectual level, and to develop their ability to organize and fight for a social ideal. The Socialist movement recruits adherents mostly from among the better situated, better trained and more intelligent workers. The unfortunate "slum proletarians," whose energies, hopes and ambitions have been crushed out by misery and destitution, can only rarely be relied on to rally to the virile battle cry of Socialism.

The main points in the Socialist program of practical work may thus be summarized under the three heads of Education, Organization and Struggle for the Material Improvement of the Working Class.

The objective point of the Socialist attack is the capitalist system, not the individual capitalists. The struggles of the movement represent the organized efforts of the entire working class, not the daring of the individual leader or hero. The intellectual level and political ripeness of the working class are determined by the training of the men and women constituting that class, and not by the more advanced visions of a small group of it. A country can be educated, led and transformed into Socialism, but it cannot be driven, lured or bulldozed into it. The Socialist conception of the world process is evolutionary, not cataclysmic. Socialism has come to build, not to destroy. This accepted position of the modern Socialist movement is, however, not to be taken as an assurance or prediction that the Socialist victory will in all cases come about by orderly and peaceful methods, and will not be accompanied by violence. It may well happen that the classes in power here or there will refuse to yield the control of the government to the working class even after a legitimate political victory. In that case a violent conflict will necessarily result, as it did under somewhat similar circumstances in 1861. But such spectacular and sanguinary outbreaks, which sometimes accompany radical economic and political changes, are purely incidental — they do not make the social transformation. Thus in England the revolution, which transferred the actual control

of the country from the nobility to the capitalists, was accomplished by gradual and peaceful stages, without violence or bloodshed. In France the same process culminated in the ferocious fights of the Great Revolution of 1789. But who will say that the transition in England was less thorough and radical than in France? As a matter of fact, street fights do not make a social revolution any more than fire-crackers make the Fourth of July.

It is sometimes helpful to elucidate an abstract principle by a concrete and simple example. The manner in which the present order is to change into Socialism may be illustrated by the familiar process of chicken-hatching.

A normal chicken egg will be converted into a live chicken if kept twenty-one days in a temperature of  $98\frac{1}{2}$  degrees.

Now observe some of the most striking phases of the process.

An egg is entirely and radically different from a chicken in form. Under ordinary circumstances, it can be readily determined whether an object is the one or the other. But after the egg has passed a few days in the life-producing temperature radiating from the hatching hen, its identity is no longer so clear. The embryo of the chicken may be discerned in the contents of the egg. And every day thereafter the substance of the egg continues changing — every day it becomes a little less egg and a little more chicken, until on the last day nothing is left of the egg but the form, the substance inside is a live, complete and fully organized chicken. Similarly the feudal order of society is quite distinct from the capitalist order. Europe of the fifteenth century presents a system of unalloyed feudalism; Europe of the end of the eighteenth century, is just as unmistakably capitalistic, but Europe of the seventeenth century is like the egg in the early periods of hatching — it represents a feudal form of government with a decided capitalist order. Europe of the fifteenth century presents a system of unalloyed feudalism; Europe of the end of the eighteenth century is just as unmistakably capitalistic, but Europe of the seventeenth century is like the egg in the early periods of hatching — it represents a feudal form of government with a decided capitalist embryo inside of it. And so likewise the capitalist egg has been set to hatching generations ago, and to-day it contains a noticeable Socialist embryo notwithstanding the deceiving appearance of the egg-shell.

Further: during the entire process of incubation the shell of the egg has remained intact. Every drop of its fluid contents has

been changed into flesh, bones and feathers, but the shell has not been absorbed or modified by the process — it has obstinately persisted in holding within its grip the new substance instead of the old. Now for a loose and liquid egg, a hard shell is a very convenient cover, but it becomes rather a nuisance to a young, enthusiastic chick. As soon as the latter develops sufficient strength and sense, it just cracks the old shell from the inside. The shell breaks into a number of fragments with great noise, the rebellious chick jumps out, and to the superficial observer this act appears to be the revolution which has converted the egg into the chicken. As a matter of fact, however, the actual revolution has taken place in the gradual growth of the chicken embryo at the expense of the egg substance. The breaking of the shell was but a manifestation of the accomplishment of the more significant process inside. Had the shell been soft and yielding, it would not even have to be forcibly cracked. The street fight, barricades and armed conflicts which occasionally accompany a social revolution are the cracking of the superficial political shell — the revolutions themselves are slowly accomplished within the industrial substance of society.

The breaking of the shell becomes a useful and liberating act only when the chicken is fully developed within it. When that point is reached, the chicken itself takes care of the shell. The hen has nothing to do with that part of the performance. It is her business to sit on the egg the full period of time required for hatching, to supply the proper heat and not to shirk her task for any period of time. Should the hen become impatient or get into her feathery head a syndicalist notion to “hasten the process,” and should she attempt to break the shell before the time, she would only destroy the embryonic life of the chicken.

And finally, the process of incubation may be used to make clear the relation of the Socialist propaganda to the process of natural economic evolution. To hatch a chicken, the hen must have an egg, an object containing the germs of a chicken. No amount of hatching will turn a stone into a chicken. On the other hand, an egg will remain an egg forever unless deliberately taken by the hen into hatching. No system of society can be transformed into a Socialist commonwealth unless it has in it the germs of a Socialist order, and on the other hand, no system of society will grow into a Socialist state unless planfully directed to it. The capitalist state is the egg — the Socialists do the hatching!

## CHAPTER V

*The Political Program*

If the Socialists were in control of Congress, what would be the first thing they would do?

This is one of the questions most frequently addressed to the Socialist propagandist. On the surface the question seems perfectly legitimate, but on closer analysis it will be found to be based on a misconception of the Socialist philosophy and a wrong notion of the established course of social and political progress.

The one great aim of all Socialists is the socialization of the industries, but that is obviously not the "first thing" that Socialists in office could attempt to bring about. The collective ownership of the social instruments of wealth production cannot be established by a single legislative enactment. Rather will it be the culmination of a long series of political and industrial reforms of a socialistic nature. These reforms will be numerous and varied in character and scope. Some of them will have to be dealt with by Congress, others by state legislatures or local political units. The measures will probably not present themselves always and everywhere in the identical form and sequence. Accidental occurrences and local conditions may force different issues to the front at different times and places. To determine in advance the exact succession of proposed Socialist reforms would be an idle undertaking. The test of practicability of Socialist politics is not whether the Socialists are agreed on a "first" practical measure, but whether they present a political program comprehensive enough to meet all important social problems of the day. They do.

The Socialist Party has a very definite political program, which differs radically from the platforms of all other political parties in scope, structure and contents.

The political platforms of the old parties are built largely on the same plan as a menu à la carte in an opulent restaurant. They are framed to meet all tastes and to satisfy all appetites. Their object is to "catch votes"—all kinds of votes, and each of their "planks" is designed to appeal to a special class of voters. The manufacturers and the workers, the railroad magnates and the farmers, the producers and consumers, the foreign-born citizens and the negroes of the South in turn receive promises, pledges or compliments. The platforms are mainly adjusted to the minor "issues" of the hour and usually fight shy of the more vital and

permanent social problems of the nation. The planks are often inconsistent and meaningless, and are never cemented by a cohesive social philosophy. There is hardly a pledge in the platform of the Republican Party that could not find legitimate lodgment in that of the Democratic Party and vice versa. Very often it is a race between the two old parties for the most popular issue, and sometimes both endorse the same popular demands with varying degrees of emphasis. It would be a vain task to attempt to distinguish the social philosophy of the Bryan platform of 1908 from that of the Roosevelt platform of 1904, or that of the Parker platform of 1904 from the Taft platform of 1912.

The political platform of the Socialist Party, on the other hand, is based on a definite social conception and on a dominant and consistent political purpose. The Socialist aim in politics is to better the lot of the workers, to curb the power of the capitalist classes, to extend the social and industrial functions of the government and to place the latter more directly in the hands of the people—all with the ultimate object of transforming the present industrial and political system into a social democracy. These aims are formulated in concrete and definite planks or "demands," which constitute the invariable political platform of Socialism. The Socialist platform may be redrafted periodically and greater prominence may be given to the issues surging to the foreground at a particular time, but on the whole it is practically unchangeable. It could not consistently be otherwise. The Socialist Party was organized for the accomplishment of a definite social and political purpose. Its platform is but the expression of that purpose and a statement of the steps by which it is expected to be realized. So long as that purpose remains unaccomplished and so long as the party adheres to its main aim, principles and methods, so long must the substance of its platform remain intact.

As the capitalist interests become more dominant and acute, representative government gradually ceases to be a government "of, for and by the people," and becomes tainted with class bias, bossism and corruption. The subversion of popular government to the interests of the great money powers and their avowed representatives in politics and government is growing more menacing every year, and is giving rise to the multiform movements for political reform within and without the established political organizations.

The main currents of such reform movements proceed along two lines. The first of these is directed against the personal unfitness or corruption of individual office-holders or politicians. To this class of reforms belong all sporadic movements of the good citizens to "turn the rascals out of office," which furnish the periodical political excitements in local elections. The recent enthusiasm for the Commission Form of Government in cities, for the Short Ballot in local, state and national elections, and all similar movements, are only practical applications, in different forms, of the same "good-men" theory in politics. They all proceed from the assumption that "good" officials make a "good" government. They believe that our present system of voting for a confusing mass of candidates for important and trivial offices at every annual election, precludes the possibility of an intelligent choice of public officials, and they recommend a curtailment of the list of elective officers and the lengthening of their official terms as an efficient method of getting the best men.

The Socialists attach but slight importance to these "good government" movements. They hold that the paramount factor in politics is measures, not men—class interests, not personal qualities.

The Republican and the Democratic parties and every reform party organized by "respectable" citizens are alike founded on the present order of society, and consciously or unconsciously they stand for the preservation of that order and for the domination of wealth. They are managed and financed by the possessing classes and their political officials spring from these classes or are dependent on them for their careers. Whether they are personally good, bad or indifferent, honest or dishonest, capable or incompetent, they are tied to the capitalist class by environment, training, instinct and interest. Experience has demonstrated time and time again that "good government" is powerless even to check simple crime and corruption in politics for any considerable length of time. It is ludicrously ineffectual as an instrument for the betterment of the lot of the toilers.

What the Socialists are striving for is not a government of good capitalists for good capitalists, but a government of workers for all workers.

The more important movements of political reform are those concerned with the permanent improvement of political methods and institutions. These movements have for their object the extension of the suffrage to classes still excluded from it, or they

aim to increase the political power of the people and to strengthen their control over their chosen representatives.

The National Platform of the Socialist Party contains the following political planks or "demands":

**UNRESTRICTED AND EQUAL SUFFRAGE FOR MEN AND WOMEN.**

**THE ADOPTION OF THE INITIATIVE, REFERENDUM AND RECALL AND OF PROPORTIONAL REPRESENTATION.**

**THE ABOLITION OF THE SENATE AND THE VETO POWER OF THE PRESIDENT.**

**THE ELECTION OF THE PRESIDENT AND VICE-PRESIDENT BY THE DIRECT VOTE OF THE PEOPLE.**

**THE ABOLITION OF THE POWER USURPED BY THE SUPREME COURT OF THE UNITED STATES TO PASS UPON THE CONSTITUTIONALITY OF LEGISLATION ENACTED BY CONGRESS.**

**NATIONAL LAWS TO BE REPEALED ONLY BY ACT OF CONGRESS, OR BY A REFERENDUM VOTE OF THE MAJORITY OF THE VOTERS.**

**THE EXTENSION OF DEMOCRATIC GOVERNMENT TO ALL UNITED STATES TERRITORY.**

**THE IMMEDIATE CURBING OF THE POWERS OF THE COURTS TO ISSUE INJUNCTIONS IN LABOR DISPUTES.**

**THE FREE ADMINISTRATION OF JUSTICE.**

**THE CALLING OF A CONVENTION FOR THE REVISION OF THE CONSTITUTION OF THE UNITED STATES.**

All these measures are essential, but in practice the Socialists lay particular stress on three of these demands: Woman Suffrage, Proportional Representation and Restriction of the Powers of the Courts.

The Socialist Party was the first political party in any country to declare unequivocally for the full and equal right of all adults of both sexes to vote in popular elections and to hold public office, and it has fully established the principle of political sex equality within its own organizations. Women constitute a substantial part of the active membership of the Socialist Party and they are always largely and ably represented on its lecture platforms and in its executive councils and conventions.

The principle of Proportional Representation is a vital article of the Socialist political faith on grounds of expediency as well as principle. The Socialist Party is a minority party and a class party. As a minority party it is practically deprived of representation under the prevailing system of election by legislative districts of single constituencies. In the elections of 1912 the total

number of votes cast for all parties was about 15,000,000. Of these the Socialist Party received in the neighborhood of 900,000, or about 6 per cent. On this basis the party was entitled to 26 out of 435 members of the House of Representatives. It did not elect one. Assuming that the Socialist vote is evenly distributed all over the country, which is very largely the case, we may conceive of a situation where, with a political strength equal to one-fourth or even a full third of the voting power of the country, it may remain without representation or voice in Congress. And the situation is similar with reference to our state legislatures and city councils.

The objection most frequently raised to the system of proportional representation is, that it would tend to enhance the importance of political organizations as against the personality of the individual candidates. But in the eyes of the Socialists this is rather an argument in favor of the measure than against it. For the Socialists consider their party first of all as the political instrument of the working-class struggles. The Socialist Party as such formulates the political demands of the movement, conducts the campaigns for their enactment, and is accountable to the workers for the results of its policies. The candidates of the party are merely its agents; agents with restricted powers and specific mandates.

The principle of proportional representation is directly opposed to the philosophy underlying the growing movement for direct or popular primaries within the organizations of the old parties. The Republican and Democratic parties are not separated by class lines. As between themselves they have no distinct missions or functions. Their separate organizations only tend to develop political "rings" and "bosses" for the appropriation and distribution of political plunder. Hence the desire of the respectable citizens to abolish party organizations and conventions and to place the nomination of candidates, practically the sole function of the old political parties, in the hands of the voters. To the militant Socialists a movement to eliminate their party organization would appeal with the same force and conviction as a proposal to suspend military order and discipline would appeal to an army in battle.

The curtailment of the powers of our courts is probably the most fundamental political measure advocated by the Socialists. No other free nation has ever permitted a small group of men to set aside its laws and to nullify the expressed will of the people.

These extraordinary powers are the distinctive attributes of absolute and autocratic sovereignty. So long as the people of the United States leave their ultimate political and social destinies at the mercy of nine men, appointed for life and often out of touch and sympathy with the needs, struggles and aspirations of the great masses, so long will our "self-government" be a sham and our "democracy" a delusion.

The great modern problems can be solved peacefully and rationally only by a people free to shape its own destinies, and to model and remodel its institutions without the arbitrary interference of a few old men nourished by the musty legal wisdom of the dead past. The Socialists therefore consider the radical reformation of our judiciary system a condition precedent to all true measures of social reform.

The political planks in the Socialist platform aim to establish a closer connection between the people and their chosen representatives and to extend the direct participation of the citizens in the government. But the Socialists do not overestimate the importance of political reforms. Politics is not government, it is only the machinery of government. Tools in themselves, and be they ever so ingenious and apt, are entirely devoid of value unless applied to the production of socially useful commodities. Universal adult suffrage, direct legislation and control of public officials are the tools of democracy. They are of the highest importance and value if used for the enactment of measures to improve the every-day lives of the people and to increase their general happiness. They are purely ornamental otherwise.

The Socialists are vitally interested in all measures calculated to enhance the material welfare and to raise the intellectual level of the workers. They believe that the task of transforming modern capitalist society into a Socialist commonwealth rests primarily on the workers, and they realize that this gigantic historical task cannot be accomplished by a class of physical and mental weaklings, but that it requires the organized and persevering efforts of large masses of men and women physically, mentally and morally fit to assume the reins of government. The Socialist efforts to raise the standard of the workers' lives are therefore not based on mere humanitarian or sentimental motives. They are an organic part of the practical work of Socialism, an indispensable condition of the progress and ultimate success of the movement.

The platform of the Socialist Party contains the following comprehensive "demand" under this head:

"The conservation of human resources, particularly of the lives and well-being of the workers and their families:

"By shortening the workday in keeping with the increased productiveness of machinery.

"By securing to every worker a rest period of not less than a day and a half in each week.

"By securing a more effective inspection of workshops, factories and mines.

"By forbidding the employment of children under 16 years of age.

"By establishing minimum wage scales.

"By abolishing official charity and substituting a non-contributory system of old-age pensions, a general system of insurance by the state of all its members against unemployment and invalidism and a system of compulsory insurance by employers of their workers, without cost to the latter, against industrial diseases, accidents and death."

The most important of these measures from a Socialist point of view are those dealing with the shortening of the labor time and with the system of "social insurance" of the workers. A shorter workday would tend to solve at least partly the problem of unemployment and at the same time and for the same reason to increase the average wage. It would give to the worker more time to live, think and enjoy, and would broaden his political, social and spiritual interests. It would also contribute largely to the curtailment of the evil of child labor. Government insurance of the workers in cases of unemployment, accidents, sickness, invalidity and old age would tend to remove that most dreadful feature of the life of the modern wage-worker — the uncertainty of existence, the fear of the morrow. Under present conditions the unfortunate worker who has been maimed or has gradually lost his youth, health and strength in the service of his fellow-men is mercilessly cast aside and allowed to starve and perish by degrees. Under a system of government insurance, society would take care of the victims and veterans of the large life-sustaining army of workers as it now provides for the victims and veterans of death-dealing warfares. The measure is not a Socialist Utopia, for systems of social insurance along the lines

indicated, in more or less perfect form, are in actual operation in almost all advanced modern countries except the United States.

While seeking to secure all needed measures of immediate political and industrial reform, the Socialists also endeavor to extend the sphere of the social and economic functions of the government.

The Socialist platform demands:

"The collective ownership and democratic management of railroads, wire and wireless telegraphs and telephones, express services, steamboat lines and all other social means of transportation and communication and of all large-scale industries.

"The immediate acquirement by the municipalities, the states or the federal government of all grain elevators, stock yards, storage warehouses and other distributing agencies, in order to reduce the present extortionate cost of living.

"The extension of the public domain to include mines, quarries, oil wells, forests and water-power.

"The further conservation and development of natural resources for the use and benefit of all the people.

"The collective ownership of land wherever practicable, and, in cases where such ownership is impracticable, the appropriation by taxation of the annual rental value of all land held for speculation.

"The collective ownership and democratic management of the banking and currency system.

"The adoption of a graduated income tax, the increase of the rate of the present corporation tax and the extension of inheritance taxes, graduated in proportion to the nearness of kin — the proceeds of these taxes to be employed in the socialization of industry."

Of all the planks of the Socialist platform, those just quoted would naturally seem most closely allied to the ultimate aim and social ideal of the Socialists. As a matter of fact, they are not. The Socialists entertain no illusions as to the benefits of governmentally owned industries under the present régime. Government ownership is often introduced not as a democratic measure for the benefit of the people, but as a fiscal measure to provide revenue for the government or to facilitate its military operations. In such cases government ownership may tend to strengthen rather than loosen the grip of capitalist governments on the people, and

its effect may be decidedly reactionary. Similarly government ownership is often advocated by middle-class "reform" parties for the main purpose of decreasing the taxes of property owners and reducing the rates of freight, transportation and communication for the smaller business men.

The Socialist demand for government ownership of industries of a public or quasi-public nature, springs from different motives and contemplates a different system than the similar demands of other parties. The Socialists advocate government ownership primarily for the purpose of eliminating private profits from the operation of public utilities, and conferring the benefits of such industries on the employees and consumers. Their demand for national or municipal ownership of industries is always qualified by a provision for the democratic administration of such industries and for the application of the profits to the increase of the employees' wages and the improvement of the service. Furthermore, it must be borne in mind that when the Socialist platform declares in favor of government ownership of certain industries, the Socialist Party at the same time nominates candidates for public office pledged to carry out these measures in the spirit of that platform. In other words, what the Socialists advocate is not government ownership under purely capitalist administration, but collective ownership under a government controlled or at least strongly influenced by political representatives of the working class.

The measures so far discussed do not exhaust the practical "demands" of the Socialist Party. For while the party is primarily concerned with the relief of the workers, its endeavors do not end there. The Socialists are deeply interested in all measures of social progress and national welfare.

Thus the Socialist platform contains planks in favor of the absolute freedom of press, speech and assemblage; the enactment of further measures for general education and particularly for vocational education in useful pursuits and the enactment of additional measures for the conservation of the public health.

The National platform of the Socialist Party is supplemented by State and Municipal platforms, which are always concrete applications of the same general principles to the narrower spheres of their respective functions and jurisdictions, and together they constitute a logical, consistent and comprehensive program of social progress. And it is just in that consistency and comprehensive-

ness that the strength of the Socialist platform lies. The separate practical measures advocated by the Socialists are often trivial in comparison with the lofty ultimate aim of the movement. Some of them may even occasionally be found duplicated in the platforms of other political parties. Not one of them, standing alone, has a distinctive Socialist character. But taken in its entirety, the Socialist platform presents a striking and radical departure from the platforms of all other political parties, and bears the unmistakable imprint of the Socialist thought and endeavors.

## CHAPTER VI

### *The Achievements of the Movement*

In this chapter we will endeavor to sum up the record of concrete achievements of the modern Socialist movement. The task presupposes a definite test by which the practical results of the Socialist propaganda may be ascertained and measured. What is that test?

The aim of Socialism is to reorganize modern society by abolishing private operation of business and introducing a system of localized industries. This program extends to the entire civilized world. It may be realized in different places at different times, but in each case it will require for its realization the entire machinery of a complete and autonomous political government.

Neither a city administration nor a state government is capable of reorganizing the important national industries on a basis of collective ownership. A Socialist commonwealth can be established only through the co-operation of all departments of the national and state governments. In other words, the Socialists must be in full political control of the country before any part of their ultimate social ideal can be materialized.

It is singular how the non-Socialists and anti-Socialists alike fail to grasp this simple proposition. "Has Socialism ever been tried?" naively inquire the former, and "Socialism has failed wherever it has been put to a practical test," gravely assert the latter.

As a matter of fact, Socialism has never been "tried" and has never "failed," just as little as the twenty-first century has been "tried" or has "failed." Socialism represents an order of society which is expected to evolve from the present order. It is an anticipated future phase of modern civilization, just as "capitalism"

and "feudalism" represent the present and the past stages of that civilization:

Social systems cannot be had "on trial" or "on approval" like a pair of gloves, to be retained or rejected, depending on the satisfaction which they give or fail to give to the prospective user. Less advanced organizations of society grow into more advanced organizations when time and conditions are ripe for the change, just as youth grows into manhood — without preliminary "samples" or "trials."

The test of the practical achievements of the Socialist movement is therefore not, whether Socialism has already been realized in parts or in spots, but whether the movement has made a substantial advance in the task of creating social and political conditions favorable to the introduction of the Socialist commonwealth.

A familiar page from the history of the United States will serve to illustrate the point.

The organized anti-slavery movement of this country dates back to the last quarter of the eighteenth century, when abolition societies were formed in Pennsylvania, New York, Maryland, Connecticut, Virginia and New Jersey. The agitation assumed a more practical and direct aspect under the leadership of Garrison, about 1830, and thenceforth continued with growing intensity for a period of about thirty-five years. The abolitionists may be said to have gained control of the political machinery of the country with the first election of Lincoln in November, 1860. The Emancipation Proclamation was issued on January 1st, 1863. The political power of the anti-slavery forces became absolute upon the final surrender of the Confederate Army on April 9th, 1865, and the institution of slavery was definitely and completely banished from the entire territory of the United States by an amendment to the Constitution on the 18th of December of the same year.

Assume, now, the condition of the abolitionist movement about the middle of the last century and let us suppose that its followers are catechized on the subject of concrete achievements.

"Your movement is more than half a century old, and you have had about twenty years of organized and direct work. What practical results have you accomplished; what portion of the negro slaves in the South have you succeeded in freeing?"

We may imagine a question like this addressed to Wendell

Phillips by an unbiased inquirer with a "practical turn of mind" and repeated with derision by the "safe, sane and conservative" pro-slavery advocate.

And we can hear Phillips' smiling answer:

"No, we have not yet emancipated the Southern negroes or any portion of them. When the hour shall come to abolish slavery, we will abolish it all, and in the meantime we have made a few big strides towards that goal. Since the beginning of the abolition movement we have gained some notable political victories, such as the Missouri Compromise and the admission of California as a free state. But we have gained vastly more in educating the public mind and arousing the public conscience to the realization of the evils of slavery, and the creation and growth of a strong organized force to battle for the abolition of that evil. Less than fifteen years ago the abolitionists were decried by the press and church as enemies of society, criminals, heretics and free-lovers, and all good people held them in horror; to-day, large sections of the enlightened public begin to feel that our aim is pure and good and they turn a sympathetic ear to us. Thirteen years ago Elijah P. Lovejoy was mobbed and killed for denouncing the brutal burning of a negro slave, and William Lloyd Garrison was dragged by a rope half naked through the streets of Boston; to-day the leaders of our movement can freely write and speak their thoughts. Respectable publications will report their utterances without distorting them, and well-behaved audiences will listen to them attentively and thoughtfully.

"Ten years ago we formed the Liberty Party and polled but 7,059 votes in the whole country; two years ago our Free Soil Party received almost three hundred thousand votes.

"We have overcome many obstacles in the path of our movement and have created many conditions favorable to the ultimate triumph of our cause. These are the concrete and practical achievements of our agitation."

It takes but little imagination to translate the assumed colloquy into modern terms and to apply the abolitionist argument to the present-day Socialist movement.

The concrete and conscious efforts to pave the way for the introduction of a socialist régime may be summarized under the following three main heads:

1. The enactment of such social reform as tend to facilitate the transition from capitalism to Socialism.

2. The creation of a sympathetic public attitude towards the Socialist aim and program.

3. The organization of a body of persons, sufficiently numerous, intelligent and trained to accomplish the practical task of social transformation.

The extent to which these tasks have been accomplished determines the measure of practical success of the Socialist propaganda.

Under the head of "socialistic" reforms we must include all modern legislation, directly or indirectly inspired by Socialist activities, and having for its object the betterment of the economic condition of the workers or the increase of their social and political strength. But few national reforms of this description are directly traceable to Socialist initiative in this or in any other country. It must be borne in mind that Socialism is, on the whole, a very recent factor in the politics of modern nations. In Germany, the Social Democratic Party has been represented in Parliament about forty-five years, but in all other countries the first appearance of Socialism on the political arena does not date back more than twenty or twenty-five years. In the United States the Socialist representation in Congress is limited to the one term of Victor L. Berger (1911-1913), and Meyer London (1915-1917). While the Socialists have representation in almost every Parliament of Europe, and in many instances form strong groups in them, they nevertheless are in the minority in each case. In most European Parliaments a fixed and rather large number of seconders is required before a proposed measure can be considered by the house. The Socialist parliamentary groups in these countries have until recent years rarely been strong enough to comply with such requirements, and their practical activities were thus of necessity limited to the support or opposition of measures introduced by the government or by other parties. But with all these handicaps, the Socialist work in national law-giving bodies is not devoid of direct and important results. The Social Democratic Party of Germany boasts of a large number of reform measures, principally in the field of workingmen's state insurance, factory laws and taxation, which have been enacted through its direct initiative.

In France the Socialist deputies have secured the passage of laws reducing the hours of labor of government employees, extending the powers of municipal administration and improving the

system of the state accident insurance and old-age pensions. In Denmark the Socialist representatives in Parliament have caused the adoption of a system by which the labor unions receive government subsidies for their unemployed members. In Austria, Sweden and Norway, the Socialist parties have been largely instrumental in extending the popular suffrage, and in Italy, Belgium and Switzerland, they have succeeded in forcing the adoption of substantial reform measures of various characters.

But more important than the achievements in the domain of national legislation have been the practical results of local Socialist politics. This is quite natural. While the Socialists so far constitute only small minorities in the national councils of the world, they have already succeeded in securing full control of numerous cities and towns in all modern countries.

In Germany, France and Italy the Socialist municipalities count by the hundreds.

Austria, Belgium, Holland and the Scandinavian countries likewise contain large numbers of cities, towns and villages fully controlled by the Socialists, and no less than two thousand municipal councils in Europe have Socialist representation of varying degrees of strength. Even in the United States, in which the political career of Socialism is practically in its infancy, the Socialist Party is in control of more than fifty cities and towns and has elected about one thousand public officials to local offices.

In the cities in which the Socialists have been in power they have introduced such reform measures as were feasible within the restricted scope and powers of municipal government. The reforms do not constitute Socialism or even an earnest of Socialism, but they are measures based on the recognition of the social obligations of the community towards the citizens, the new spirit in politics for which Socialism is largely responsible.

In the conventional political conception a municipal corporation is first of all a business concern, instituted and maintained for the purpose of administering the corporate property of the city. Hence the slogan of all municipal reform movements of the middle class is invariably "a clean, honest, business-like administration." The Socialists, on the other hand, emphasize the social functions of the municipality; the education, health, and social welfare of its inhabitants.

A typical Socialist city begins its reforms with the child, the bearer of the community's future. A Socialist municipality

almost invariably takes care of its working women during the period of confinement by providing free maternity hospitals with proper medical attendance. When the mother is ready to return to work, the city continues to exercise a watchful and tender oversight of the child. Free municipal day nurseries, kindergartens, primary schools and schools for higher industries succeed each other in the task of rearing the child into healthful and enlightened manhood or womanhood. In most cases the city provides for its needy children not only free instruction but also medical care, and even food and clothing. Seaside colonies and summer outings for all poor children are common features in connection with the public school systems in Socialist cities.

Nor do the educational activities of Socialist municipalities end with the child. The cultivation of fine arts and the dissemination of popular science among the adult workers, through the medium of municipal theatres, free concerts, reading-rooms and public lectures are quite usual in Socialist city administration.

Next to the all-important subject of education, the Socialists bestow their greatest care on the problems of public health.

Whenever a city under Socialist control contains slums or abnormally congested districts, the administration seeks to relieve the condition by the building of municipal dwelling-houses and by increasing the number of parks and play-grounds. Municipal bath-houses, disinfecting plants, hospitals and dispensaries are established wherever practicable, and physicians and nurses are placed at the service of the poor free of charge.

The Socialist city administrations everywhere have sought to enlarge the scope of public assistance to the needy members of the community and to remove the sting of charity from such assistance. The poor are the victims of our social system. They have been wronged by society and the community owes them an honorable reparation. Hence the support given by the Socialist municipalities is more in the nature of pensions than alms. Municipal bakeries, kitchens and groceries, selling their products at cost, or giving them away, are favorite institutions in Socialist city administrations.

The Socialist municipalities seek to be model employers and invariably reduce the hours of work and increase the wages of the municipal employees. With all this, they are rarely extravagant in their expenditures, and their finances are, as a rule, in better order than those of the capitalist-governed cities. The in-

creased expenditures which the many new activities involve are made up by economies in the administration of business, elimination of graft, and by forcing the wealthy citizens to pay their just shares of the taxes. The general spirit of social service and civic betterment, which is beginning to pervade the administration of cities in all progressive countries of the world, is largely due to the Socialist example. Even in the United States, Milwaukee, Schenectady, Berkeley, and Butte have established standards of municipal administration, which are rapidly beginning to force other cities into the path of social progress.

These, then, are the most conspicuous of the "direct" political achievements of Socialism. They constitute a distinct social advance, although they are not revolutionary or epoch-making in character. Far more significant than the direct results are the numerous measures of social legislation which have within the last generation been enacted by the law-giving bodies of almost all civilized countries, as the indirect but nevertheless legitimate results of the Socialist propaganda.

Such measures of social reform are, as a rule, originally formulated by the Socialist parties on radical and thoroughgoing lines. They become the object of a persistent and widespread propaganda, and finally they acquire the force of popular demands. At this stage the "progressive" and sometimes even the "conservative" statesmen of the dominant political parties begin to realize the political significance of the proposed measure. The *Vox Populi* means votes on election day, and the shrewd leaders of the old parties are quite willing to make an occasional concession to "social justice" in order to maintain or to gain political power. A classical example of such statesmanship may be found in the very recent political history of our country. The father and leader of the "Progressive Party" is on record with one of the most violent and abusive diatribes against Socialism ever perpetrated in American journalism. By the vagaries of the political chess game he found himself deprived of the support of the powerful political organization which he had but recently controlled. A new party and a new political movement had to be formed in order to preserve for him a measure of political power. Since it could not be a party of the old-type stalwart politicians, it had to be a party of the people, opposed to the rule of bossism and privilege, advocating popular measures and preaching the gospel of social progress. The Progressive Party

accordingly ransacked all progressive movements of the time, and from each it took the most popular planks. And the vast majority of such planks was naturally found in the platform of the most radical political organization, the Socialist Party. The platform of the Progressive Party teemed with "principles" and "issues" inspired by the Socialist program.

Another motive for the enactment of socialistic measures is frequently found in the desire to palliate or destroy the effectiveness of the Socialist propaganda.

When the Socialist movement in any country assumes such dimensions as to become menacing to the dominant classes, the latter frequently conceive the idea of checking its growth by making concessions to the "discontented" masses, and "thus stealing the Socialist thunder."

Thus Prince Bismarck, when he first introduced into the German Diet his broad program of social reform, including the revolutionary principles of government insurance of the workers against sickness, accidents, invalidity and old age, frankly avowed that the primary object of the measure was to avert a popular revolution. The same considerations hold good for all other countries, and the appearance of the Socialist movement is invariably accompanied by an era of legislative social reform. In England the advent of the semi-socialist Labor Party in Parliament was followed by the old age pension system, the trade-dispute act and by the more recent comprehensive social reforms of Lloyd George. The United States has for decades been the most backward country in the dominion of social legislation, but the last few years have developed a strong tendency for radical social reform, and naturally the Socialist movement in America has begun to acquire political significance at about the same time.

Experience has demonstrated that the efforts to forestall or check the growth of Socialism by legislative concessions, never succeeded. The concessions are necessarily half-hearted, and while the reform measures thus enacted are often substantial advances in the path of social progress, they always fall far short of the radical demands as originally formulated by the Socialists. The ruling classes cannot be expected to lay down all or even the most substantial of their privileges by voluntary legislative enactments. Whatever concessions they make to the workers merely touch the surface of the evils of capitalist exploitation. The mainspring of these evils is bound to remain intact, and

popular suffering and social injustice are bound to continue so long as the basis of the present social system, the private ownership of industries, persists.

When one social evil is cured or partly cured, the Socialists advance to the next and more vital problem. They never run short of demands for reform measures, and they can formulate them more rapidly and copiously than the other political parties can "steal" them. The Socialists do not copyright their platform planks. They are well contented to have them plagiarized and disseminated.

The true task of Socialism, the work of rebuilding the economic and political structure of modern society on the lines of the ultimate Socialist program will begin only when the Socialists have acquired full political control of the government, and in the meantime they are contented with the role of torch-bearers of the new civilization, always formulating larger social claims, always forcing the next step in social progress. The concrete reforms which the organized Socialist movement has thus indirectly gained and is still constantly gaining by its mere existence and growth, are probably more numerous and substantial than the actual achievements of all so-called "practical" reform movements combined.

Still more significant for the prospects of the movement are the effects of the Socialist propaganda upon the contemporary public mind. In almost all countries of Europe the Socialist movement has experienced three distinct phases of development. The first is one of general ridicule, which manifests itself in grotesque caricaturing of its aims and character. This phase is invariably succeeded by an era of fierce attacks and denunciations from all established organs of public expression; as a rule accompanied by rigid government persecution. This era represents the attempt to stamp out Socialism by brutal force — the vain attempt which has met every historical movement for a new order, and which has always served to vitalize, cement and strengthen such movements.

When the Socialist movement has survived both ridicule and persecution, and has demonstrated its determination and capacity to stay and to grow, it enters upon the third stage of its existence, that of being "respected." By this expression it is not intended to convey the idea that the Socialist movement ever has reached the point of becoming acceptable or even sufferable to the privi-

leged classes. It will never reach that point so long as it retains its principal and most vital object—the abolition of all class privileges.

The ruling classes are probably more hostile to the Socialists now than they were during the earlier and weaker stages of the movement. But it is the hatred of an enemy facing a formidable adversary, a hatred mingled with respect, and often counseling concessions rather than courting war.

And side by side with the privileged classes, great in power, but few in numbers, there are the large and somewhat vague strata of society, generally styled the “middle” classes, and the still larger and more definite classes of wage-workers of all types.

The middle classes, who reap but slight benefits from the present order, and are not bound to it by ties of privilege and wealth, begin to see in the promises of Socialism a possible solution of their ever-growing economic problems. They develop a more serious and sympathetic understanding for the humanitarian ideals of the new social creed, and many of their number finish by embracing it unreservedly.

The working classes are the most direct beneficiaries of the proposed Socialist system. As far as they are concerned, an understanding of the Socialist doctrine is practically equivalent to its acceptance. That understanding has been brought home to millions of them within the last two or three decades of Socialist propaganda, and millions of them have enlisted under the banner of international Socialism.

But the most vital and direct test of the practical results of the Socialist activities is their effect on the Socialist organizations. Preparatory reform measures and a favorable state of the public mind create the necessary atmosphere and environment for the introduction of a new and radical social order, but the concrete task of ushering in such an order must be accomplished by an organized force, and the larger and better organized that force, the sooner will the change come and the more thorough and lasting will it be.

By the middle of the last century Socialism was confined to a small group of individuals and represented nothing more than an abstract school of unpopular social philosophy. To-day the Socialist movement has become a recognized factor in the public life of at least twenty-six modern nations. In 1867 the total number of

Socialist votes in the world was about 30,000. To-day it exceeds ten million. The Socialist movement is thoroughly organized, more so than any other movement in our days or in the past. In each country the Socialist constitute a party, based on dues-paying, active and permanent membership.

The Socialist organization is solid because it is not a sporadic creation, but the result of a process of steady, regular and legitimate growth. It is reliable because it is composed of men and women who have enlisted in the cause voluntarily and are attached to it by indestructible ties of conviction and hope. It is well trained and disciplined by that mutual training and self-imposed discipline which alone can be counted on in an emergency. The Socialist organization is supported by all other armies of organized labor. The trade-unionists of the world, about as large in number as the Socialist voters and wielding a tremendous economic power, and the co-operative movement numbering millions of workers and representing huge material wealth, are, with few exceptions, solidly lined up behind the Socialist movement, acting in accord with it on all questions of great public importance.

It is this world-wide organized force, this growing international army of the Socialist warfare, which constitutes the most concrete and most promising achievement of the Socialist propaganda.

## CHAPTER VII

### *Socialist Movement in the United States*

For many years American statesmen and social philosophers watched the growing tide of Socialism on the other side of the Atlantic Ocean with serene detachment. "Socialism," they diagnosed, "is a specific European product. It will never take root in American soil." And for a long time the belief seemed to be justified.

The early forms of European Socialism, the humanitarian and romantic movements of the beginning and the middle of the nineteenth century had found a lively echo in the United States. Most of Robert Owen's practical experiments in communism were tried out on American soil, and his primitive doctrines of Utopian Socialism gained large currency in this country during the period between 1825 and 1830.

The "Icarian" communities of Etienne Cabet, though originating in France, lived through their adventurous and pathetic history in Texas, Illinois and Missouri. The Fourierist creed had such brilliant sponsors in the United States as Albert Brisbane, Horace Greeley, Charles A. Dana, Parke Godwin, William Channing and John S. Dwight. It produced the famous Brook Farm and the North American Phalanx besides about forty less known social experiments in different parts of the country.

But these movements left no lasting impression on the life and thought of the American people. They died out before the era of large-scale capitalistic production.

Socialism as a political working-class movement originated in Europe towards the last quarter of the nineteenth century; and developed marvelous strength and vitality during the following two decades. But in the United States it had little more than a nominal existence during that period.

The vast majority of its adherents were foreign-born workingmen, principally Germans, who had brought their social philosophy with them from their native lands, and were making heroic endeavors to acclimatize the movement in the country of their adoption. Their efforts were practically barren of results. The United States lacked the most essential requirements for the development of a Socialist movement of the modern type.

Socialism presupposes an advanced and concentrated state of industry, a powerful class of capitalists dominating the economic and political destinies of the country, a large army of industrial wage-workers in a precarious condition of existence, and a clear-cut and conscious economic conflict between these classes.

In the United States these conditions developed only within very recent years. A generation ago agriculture was still the main industry of the country, while manufacture was conducted on a comparatively small scale. The general prosperity following the Civil War and the remainder of "free land" in the West operated to retard the class struggles in America and to create a condition of relative industrial peace.

But during the latter half of the nineteenth century American industries awoke with a start and with the rapidity characteristic of all new-world progress they soon outdistanced their European rivals. Enormous factories and mills arose all through the East and Middle West, and the United States increased its manufac-

tured products from about one billion dollars to more than thirteen billions per year, thus surging from fourth to first rank among the manufacturing nations of the world. During the same period the different sections of the country were brought into organic touch with each other and with the rest of the world by a veritable network of railroads and a wonderful system of steamboats. The number of railroad miles in operation rose from about 9,000 in 1850 to almost 200,000 in 1900. The improvement in the number, size and speed of transatlantic steamboats kept pace with that of the railroads. The means of communication grew as rapidly as those of transportation. The postoffices in the country jumped from about 28,000 in 1860 to more than 75,000 in 1900, and the annual telegraph messages increased from 5,000,000 to 80,000,000 during the same period.

Towards the end of the nineteenth century the United States had become a distinctly industrial and "capitalistic" country. Over 40 per cent. of its inhabitants were engaged in manufacture, trade and transportation, and agriculture receded to second place. One-third of all the people had congregated in large cities as against one-eighth in 1850. Corporations became the dominant factors in industry and finally evolved the highest form of capitalist organization — the trusts. Large fortunes were quickly made and a generation of millionaires and multi-millionaires was born. Towards the middle of the last century America could boast of only fifty millionaires with an aggregate fortune of about eighty million dollars. At the close of the century the number of American millionaires of all degrees exceeded twenty thousand, their total wealth mounted to thirty billion dollars and represented almost a full half of the "national" wealth of the country.

The rapid growth and expansion of capitalism naturally produced its inseparable counterparts — mass-poverty, unemployment, child labor, class struggles, social unrest and general discontent. By the end of the century about 6,500,000 persons were regularly without work at some time during the year, and the standing army of jobless workers was considerably over one million. At the same time the number of working children, 10 to 15 years of age, exceeded 1,750,000, and that of working women over the age of 15 years was about 5,000,000. The closing twenty years of the nineteenth century witnessed about 24,000 recorded labor struggles, involving a total of almost 7,000,000 workers.

Thus the modern industrial conditions of the old world were transplanted and intensified in the United States, and with them the fatal legacy of economic problems and evils. Here, as there, the baneful system inevitably called forth organized resistance on the part of its victims. The movement of resistance was represented on the economic field by the labor unions. In the political field it was bound to find expression in Socialism, just as the similar conditions in the countries of Europe had found such expression. Socialism is the legitimate child of capitalism, and at a certain stage of its development the latter cannot help begetting the former.

The dawn of the present century found a considerable Socialist and semi-Socialist sentiment among several sections of the American population, and also the rudiments of a Socialist political organization. The latter were represented by two separate factions of the "Socialist Labor Party," the old-time organization of the Socialists in America, the "Social Democratic Party," which had then been recently organized, and several minor Socialist organizations. Dissensions and antagonism, so characteristic of the formative stages of the Socialist movement in every country, were the principal features of the American Socialist organizations until the middle of 1901, when all organizations with one exception (that of the more irreconcilable faction of the Socialist Labor Party) united. The formal unification was accomplished at a joint national convention, which was held in Indianapolis on July 29, 1901, and which created the present *Socialist Party*.

The growth of the Socialist Party during the twelve years of its existence is best demonstrated by its political gains.

In the Presidential election of 1900, and before the formal unification of the party, its constituent organization polled a vote of about 100,000. This vote was materially increased in the spring and fall elections of the following year, but owing to the local character of these elections the vote was never fully reported.

In the Congressional elections of 1902, however, the Socialist vote, to the surprise of all, reached very closely the quarter-million mark.

In the Presidential campaign of 1904, the political conditions of the country were exceedingly favorable for Socialism. The two great political parties both made their campaign on conservative platforms, and the People's Party had been discredited by its

former alliance with the Democrats, and disorganized and divided in its ranks. The Socialist Party, therefore, was practically the only representative of radicalism in politics, and in a position to muster its full legitimate force. The party was thoroughly alive to its opportunities, and carried on a campaign which for intensity, extension and effectiveness excelled all previous efforts of the Socialists in this country. The vote polled for the party's candidate for President, Eugene V. Debs, was 402,321.

In the elections of 1906, the vote of the Socialist Party was reduced to 330,158 (the figures are based on the highest vote in every state), and the local elections of 1907 showed no material change in the Socialist vote.

The political situation of 1908 was inauspicious for the Socialist Party. All political parties made special bids for the "labor vote" and were profuse in their promises of radical social reforms. The Republican Party was pledged to continue the "radical policies" of President Roosevelt. The Democratic Party revived the slogans of the old-time middle-class reforms and reinstated the prophet of that brand of politics, William J. Bryan, in the leadership of the party. The "radicalism" of the old parties was far exceeded by that of Mr. Hearst's newly formed Independence Party.

The vote cast for the Socialist ticket in that election was 421,520, a slight increase over that of 1904, the party's former high record.

The succeeding two years were years of steady activity and quiet harvest for the Socialist movement in the United States. The economic condition of the country following the crisis of 1907 and the failure of the numerous reform movements of the middle classes, had created an atmosphere exceptionally favorable to the growth of Socialist sentiment, and the organized Socialists were not slow to take advantage of it. Their propaganda grew in intensity and dimension; their organization was greatly strengthened, and they made new converts among all classes of the population.

In the spring of 1910 the Socialist Party gained its first notable political victory in the United States by carrying the City of Milwaukee, the twelfth largest city in the country.

In the following general Congressional elections which took place in November of the same year, the Socialist Party increased

its vote by about 40 per cent., passing the 600,000 mark. In these elections also the party for the first time in the history of the United States captured a seat in the House of Representatives. Mr. Victor L. Berger was elected as the Socialist representative to Congress from the Fifth District of Wisconsin.

Nor did the political tide of Socialism abate in the local elections of 1911. In that year the Socialists carried eighteen cities and towns, among them the large industrial city of Schenectady in the State of New York; New Castle in Pennsylvania; eight towns in Ohio; five in Utah, and one in Minnesota. Berkeley, California; Butte, Montana; Flint, Michigan, and several other towns had been carried for Socialism in the spring of the same year.

In the Presidential election of 1912 the political strength of American Socialism was subjected to a most severe test. For the first time in the history of American politics the voters were confronted by a party similar in type to the "liberal" or "radical" parties of the European bourgeoisie. The National Progressive Party made its campaign on a platform of broad social and political reform. It purloined a large number of minor planks from the Socialist program and even adopted many time-honored Socialist watch-words and slogans. The new party was organized and led by Theodore Roosevelt, the most popular man in the country and probably its most skilled politician, and his picturesque fight as well as the great prestige of his recent high office, could not fail to commend his party to the radicals and reformers of the country and to large masses of the workers. It offered the logical outlet to the proverbial vote of "discontent and protest."

Under these conditions the vote of the Socialist Party was from the outset limited to thoroughgoing Socialists.

It was therefore all the more significant, when it was found that the vote cast for Eugene V. Debs on November 5, 1912, was in the neighborhood of 900,000. The Socialist Party had doubled its vote of the preceding Presidential election under the most adverse circumstances, and had proved itself an established factor in American politics.

At the present time the Socialists control between fifty and sixty American cities or towns and have more than one thousand elected representatives in various public offices, including twenty representatives in the legislatures of eight states.

But the progress of the Socialist movement in the United States can by no means be measured by its political strength and achievements alone. The Socialist Party was organized with a membership of less than ten thousand. Towards the end of 1904 the party consisted of about 1,500 local subdivisions with a total of about 25,000 enrolled and dues-paying members. Within the period of the following eight years the number of local organizations has risen to about 5,000, with a combined membership of approximately 100,000.

Another indication of the increasing importance of the movement in the United States is the growth of the Socialist press. In 1904 the Socialist Party was supported by about forty publications in different languages. Since then the number of strictly Socialist publications has increased to more than three hundred. Socialist periodicals are printed in German, Finnish, Slavonic, Jewish, Polish, Bohemian, Lettish, French, Italian, Danish, Hungarian, Lithuanian, Russian, Swedish, Norwegian and Croatian.

Besides the Socialist Party there is in the United States another Socialist political organization — the Socialist Labor Party. This party represents the remainder of the irreconcilable faction of the former party of the same name. Its membership is small, and its influence is slight. Still it publishes a few weekly papers in English and other languages.

The Socialist movement in the United States has also of late made substantial progress among the organized workers of the country. Within the last few years many American trade-unions have demonstrated a lively interest in the subject of Socialism, and have on numerous occasions declared themselves unreservedly as favoring the Socialist program, or at least its most substantial points and planks. In 1907, sixteen national organizations of workingmen, representing a total membership of 330,800, had thus endorsed the Socialist program, and in 1909 the United Mine Workers of America, one of the strongest organizations within the American Federation of Labor, at its national convention declared itself in favor of the cardinal aim of Socialism, the socialization of all material instruments of production.

And the industrial workers are not the only class among whom Socialism has made gains of late. The movement has made deep

inroads among American farmers. In the national Socialist convention of 1904, the farmers made their first appearance with five delegates, and in the conventions of 1908, 1910 and 1912 a very substantial proportion of the delegates consisted of active and typical farmers. In the late general elections several purely agricultural states polled heavier Socialist votes than some of the states noted for factory industries.

And even the so-called intellectual classes of American society, the professionals and middle-class business men, are gradually drawn into the expanding circle of the Socialist movement. The American schools and colleges, as well as the press and churches, are honeycombed with Socialists or Socialist sympathizers. In the fall of 1905, several well-known radicals issued a call for the organization of a society "for the purpose of promoting an intelligent interest in Socialism among college men and women, graduate and undergraduate, through the formation of study clubs in the colleges and universities, and the encouraging of all legitimate endeavors to awaken an interest in Socialism among the educated men and women of the country." On September 12, 1905, a number of people met in the city of New York in response to the call and organized the "Intercollegiate Socialist Society." During the short period of its existence, the society has distributed a large quantity of Socialist literature among college students and teachers, and its members have delivered a number of lectures on Socialism before college students. Socialist "study chapters" connected with the Intercollegiate Socialist Society have been organized in more than fifty universities and colleges.

The Socialist movement has become fully acclimatized on American soil. According to a recent census, over 71 per cent. of the members of the Socialist Party are native citizens of the United States. The Socialist movement is to-day at least as much "American" as any other social or political movement in the country.

And still American Socialism is only in the making. All indications point to a steady development and large growth of the movement within the immediate future.

The industries of the country are rapidly concentrating in the hands of an ever-diminishing number of powerful financial concerns. The trusts, monopolies and gigantic industrial combinations are coming to be the ruling factors in the life of the

nation, industrial, political and spiritual, and the masses of the people are sinking into a condition of ever greater dependence. The number of propertyless wage-earners is on the increase; their material existence is growing more precarious, and the spirit of dissatisfaction and revolt is developing among them. The relations between the classes of producers and the employing classes are marked by intense, though not always conscious, class-antagonism and by overt class struggles.

Within the last few years the organized workers of the United States have been assailed with unusual severity by the organized capitalists, the government, the state and national legislatures, and particularly by the courts. These concerted attacks have served to demonstrate to many workers that the present methods and form of organization of the American trade-unions are lacking in efficiency. The trade-unions are beginning to revise their methods of warfare. They have, within the last few years, made considerable advance in the direction of greater organic and interdependent industrial organization, and they have entered the field of politics as a class. True, their steps in both directions have been uncertain, groping and even faulty, but they are nevertheless steps in the right direction. A few more intense industrial struggles, a few more adverse court decisions, a few more political disappointments, and the organized workers of the United States will be forced into a solid industrial and political class organization, working in close harmony and cooperation with the Socialist movement.

Similarly hopeful for the progress of Socialism is the mental attitude of all other masses of the population. The phenomenal political strength developed from time to time by the sporadic reform movements is a strong indication of the popular dissatisfaction with existing conditions. These movements are, as a rule, very indefinite in their aims and superficial in their programs. They attract the masses by their general radicalism and the promise of a small measure of immediate relief. From their very nature they are bound to be ineffective and short-lived, and their disappointed adherents become peculiarly susceptible to the appeals of Socialism.

Thus the conditions for the growth of a powerful Socialist movement in this country are rapidly maturing and the rate of that growth will largely depend upon the ability of the Socialists to

take advantage of these conditions and to win the confidence and support of the discontented masses and especially of the workers.

American Socialism has not as yet evolved definite and settled policies and methods, but the more recent phases of its development tend to indicate that it is beginning to solve its problem and to overcome its obstacles.

Within the short period of fifteen years the Socialist Party has grown from the state of insignificance to the importance of a serious factor in the national life of the United States. It is safe to predict that in another dozen years it will contend with the old parties for political supremacy.



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# **EXHIBIT 85**

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**FEBRUARY 5, 1920**

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## **MEMORANDUM**

**ON**

**CERTAIN ASPECTS OF THE BOLSHEVIST  
MOVEMENT IN RUSSIA**

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**CHARACTER OF BOLSHEVIST RULE  
ECONOMIC RESULTS OF BOLSHEVIST CONTROL  
BOLSHEVIST PROGRAM OF WORLD REVOLUTION**

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October 27, 1919

HON. HENRY CABOT LODGE, *Chairman, Committee on Foreign Relations, United States Senate.*

SIR.—I have the honor to send you herewith, for the information of the Committee on Foreign Relations of the Senate, a memorandum on certain aspects of the Bolshevik movement in Russia.

The memorandum has been prepared from original sources by the Division of Russian Affairs of the Department of State. As you will see, the statements are based almost entirely on translations from Bolshevik newspapers. These include the official organs of the All-Russian Central Executive Committee of Soviets, of local Soviet committees, and of the Russian Communist Party (Bolsheviks). The Bolsheviks' own statements are supplemented by the reports of American representatives.

The appendix contains the full text of representative Bolshevik documents. The text of other documents, such as the constitution of the so-called Soviet Republic, will be found in the published hearings on Bolshevik propaganda before the Committee on the Judiciary of the Senate, and for that reason are not reproduced here.

Since the overthrow of the autocracy in March, 1917, the Department of State has studied developments in Russia with the sympathy which America has traditionally shown toward all movements for political and social betterment. The study which has been made of the Bolshevik movement, some of the results of which are furnished herewith, show conclusively that the purpose of the Bolsheviks is to subvert the existing principles of government and society the world over, including those countries in which democratic institutions are already established. They have built up a political machine which, by the concentration of power in the hands of a few and the ruthlessness of its methods, suggests the Asiatic despotism of the early Tsars. The results of their exercise of power, as shown by the documents presented in the accompanying memorandum, have been demoralization, civil war, and economic collapse. I commend to your careful consideration the detailed information which the memorandum contains.

I am addressing a similar letter to the chairman of the Committee on Foreign Affairs of the House of Representatives.

I have the honor to be, sir, your obedient servant,

ROBERT LANSING



# MEMORANDUM ON CERTAIN ASPECTS OF THE BOLSHEVIST MOVEMENT IN RUSSIA.

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## INTRODUCTION.

The Russian Division of the State Department has prepared from original sources this brief summary of what appear to be some of the fundamental Bolshevist principles, methods, and aims. As will be seen, the statements are based almost entirely on translations from Bolshevist newspapers in the files of the department. These newspapers are the official organs of the All-Russian Central Executive Committee of Soviets, of local Soviet committees, or of the Russian Communist Party (Bolsheviks).

The Bolsheviks' own statements are supplemented by the reports of American representatives in or near Russia.

The theoretical "dictatorship of the proletariat," acknowledged to be the rule of a minority, with a definite policy of preliminary destruction, is found in fact to have degenerated into a close monopoly of power by a very small group, who use the most opportunistic and tyrannical methods, including "mass terror."

While existing on the accumulated wealth of the country, the Bolshevist régime has brought about a complete economic collapse, with consequent famine and epidemic. The claim of the Bolsheviks that economic isolation is wholly responsible for the economic chaos in Soviet Russia, cannot be sustained. The Bolshevist program has not worked and Bolshevism has to its credit no constructive accomplishment.

One of the main aims of the Bolshevist leaders from the very beginning has been to make their movement a world-wide social revolution. They insistently declare that success in Russia depends on the development of corresponding social revolutions in all other countries. Bolshevist policies and tactics are subordinated to the idea of the international proletarian revolution. Apparent compromises with "bourgeois" governments or countries have proved temporary and tactical.

## I.—CHARACTER OF BOLSHEVIST RULE.

### 1. "DICTATORSHIP OF THE PROLETARIAT."

The theoretical purposes of the Bolsheviks are clearly set forth in the following statement of aims which was embodied in the call for the first Congress of the new Revolutionary International (later called the Third or Communist International), as having been worked out in accordance with the programs of the Spartacus Association of Germany and the Russian Communist Party (Bolsheviks). As wirelessly by the Bolsheviks from Petrograd January 23, 1919, this statement contained the following:

The present is the period of destruction and crushing of the capitalist system of the whole world.

The aim of the proletariat must now be immediately to conquer power. To conquer power means to destroy the governmental apparatus of the bourgeoisie and to organize a new proletarian governmental apparatus. This new apparatus must express the dictatorship of the proletariat.

The dictatorship of the proletariat must be the occasion for the immediate expropriation of capital and the elimination of the private right of owning the means of production through making them common property.

In order to protect the socialist revolution against external and internal enemies and to assist the fighting proletarians of other countries, it becomes necessary to disarm entirely the bourgeoisie and its agents and to arm the proletariat.

(See Appendix I, p. 23, for the full text of the proclamation.)

The ablest analysis of the theory of the proletarian dictatorship is given by Lenin himself, in his report to the Eighth Congress of the Russian Communist Party, in March, 1919. (See Appendix II, p. 25, for the full text of this report, made in the form of a series of "theses.") Lenin's "theses" were adopted as the platform of the Third International, established in Moscow in March, 1919. From a reading of these theses it is clear that the period of construction claimed by the Bolshevik sympathizers had not arrived.

The following extract from a speech by Lenin at the session of the Petrograd Soviet of March 12, 1919 ("Severnaya Kommuna," Mar. 14, 1919), indicates the same:

We can understand the activities of the Council of People's Commissaries for the last year only if we assess the role

of the Soviets on the scale of the world revolution. Often the daily routine of administration and details that could not be avoided in the work of construction are pushing us to one side and forcing us to forget the great task of world revolution. But only when we assess the role of the Soviets on the world scale will we be able properly to handle the details of our internal life and regulate them properly. The task of construction depends entirely on how soon revolution will triumph in the more important countries of Europe. Only after such a victory shall we be able seriously to undertake the work of construction. The expert accountants from Berne speak of us as the champions of the tactics of violence, but in referring to this they do not see what the bourgeoisie is doing in their own countries, namely, that it is governing exclusively by violence.

In theory, the "dictatorship of the proletariat" is the class-rule of a minority, the city workman. The "poorest peasantry," that is the proletarian element among the peasants, is accepted as collaborators; but the peasantry as a whole is to be led by the urban proletariat (Summary of article by Carl Radek in the *Communist*, an official organ of the Russian Communist Party, of Apr. 20, 1918). The Soviet Government styles itself the "Workmen's and Peasants' Government," but even theoretically it has been primarily the government of the urban proletariat. To bring the peasants into line the workmen thrown out of employment who had returned to their former villages, were organized as "Committees of the Poor," to control the villages in the interests of the urban proletariat. (This maneuver is described in detail by Larin, president of the Supreme Soviet of National Economy, in the *Izvestia* of Sept. 10, 1918.)

Only recently (since May, 1919) have the Bolsheviks taken a different attitude toward the peasantry. As the result of the increase of discontent and even uprisings in the peasant villages, the Bolsheviks have made a new "class division" of the peasantry. They have "discovered" the class of "middle peasants," as opposed to the "poorest peasants," and the "rich peasants," and at the eleventh hour are endeavoring to conciliate this largest section of the peasantry.

In an address before an extraordinary session of the Moscow Soviet on April 3, 1919, Lenin said:

We must seek new sources of strength among the working classes; we must attract the village medium classes. These medium classes can develop their strength knowing that working with them are more experienced persons who have had a year's experience. Yes, the advance guard of the working class is worn out. It may be that the medium classes will not do so well, but we shall not lose much by this.

Mensheviks and social revolutionists fall into two classes. There's a group of specialists and officials who are working for us. These are not counter revolutionists and as long as they work we do not care whether they believe in the constituent assembly or even in God if they want to. The other class which only enters our ranks in order to stir up strikes must be crushed. (*Izvestia* April 5, 1919.)

(See also Appendix III, p. 28, Lenin's Report to the Eighth Congress of the Communist Party, March, 1919; and Appendix IV, p. 31, speech of Kalinin, the president of the All-Russian Central Executive Committee of Soviets.) Then, too, they needed the peasants in the Red Army, as shown by the following announcement:

From the central committee of the Russian Communist Party:

The central committee of the Russian Communist-Party announces the following:

*"To all provincial committees of the Communist Party, to Provincial Military Commissaries.*

*"The All-Russian Central Executive Committee of Soviets, at the session of April 23, unanimously adopted the decree to bring the middle and poor peasants into the struggle against the counter-revolution. According to this decree, every canton must send 10 to 20 strong, capable soldiers, who can act as nuclei for Red Army units in those places to which they will be sent."* (*Petrograd Pravda*, May 1, 1919.)

## 2. ELECTIONS TO SOVIETS.

How elections in Soviet Russia actually take place cannot be fully established. Detailed accounts of elections, particularly the elections to the local Soviets which are supposed to be the basis

of the Soviet system of representation, have not been found in the Bolshevik newspapers. Theoretically, the constitution of the Russian Socialist Federated Soviet Republic specifically provides for unequal representation of workmen and peasants, the inequality being in favor of the workmen. (Art. 53.) The committees of poor peasants mentioned above, composed mainly of workmen thrown out of employment by the collapse of industry, replaced peasant "Village Soviets" in October, 1918, when the latter were found to be acting "contrary to the constitution." (Izvestia, Oct. 10, 1918.) The accounts of the Petrograd Soviet elections of July, 1919 (Petrograd Pravda, July 5, 1919), give the returns of the election in such broad statements that no analysis of the system of elections is possible, except the generalization that the elections are by factories, regiments, Soviet institutions (employees), and trade unions. It would seem that the soldiers of the Red Army are given disproportionate representation as compared with the workmen of Petrograd.

A side light on the system of election and representation is given in the following news item from the Izvestia of the Petrograd Soviet, July 3, 1919:

Teachers and other cultural-educational workers this year for the first time will be able, in an organized manner through their union, to take an active part in the work of the Petrograd Soviet of Deputies. This is the first and most difficult examination for the working intelligentsia of the above-named categories. Comrades and citizens, scholars, teachers, and other cultural workers, stand this test in a worthy manner! \* \* \*

Many observers from Russia have furnished accounts of the arbitrary manner in which the Bolshevik leaders have controlled elections, of which the following is a typical example. This account, from a landlord for whose bias due allowance must be made, was secured by an American representative in June, 1919 (see Appendix XIII, p. 35):

Considering this discontent and hatred, it would seem that elections to different councils (Soviets) would produce candidates of other parties, nevertheless all councils consist of communists. The explanation is very plain. That freedom of election of which the Bolsheviks write and talk so much consists in the free election of certain persons, a list of which

had already been prepared. For instance, if in one district six delegates have to be elected, seven to eight names are mentioned, of which six can be chosen. Very characteristic in this respect were the elections February last in the district of \* \* \* Moscow Province, where I had one of my estates. Nearly all voters, about 200, of which 12 were communists, came to the district town. Seven delegates had to be elected and only seven names were on the prepared list, naturally all communists. The local Soviet invited the 12 communistic voters to a house, treated them with food, tea, and sugar, and gave each 10 rubles per day; the others received nothing, not even housing. But they, knowing what they had to expect from former experiences, had provided for such an emergency and decided to remain to the end. The day of election was fixed and put off from day to day. After four postponements the Soviet saw no way out. The result was that the seven delegates elected by all against 12 votes belonged to the Octobrists and Constitutional-Democrats. But these seven and a number of the wealthier voters were immediately arrested as agitators against the Soviet Republic. New elections were announced three days later, but this time the place was surrounded by machine guns. The next day official papers announced the unanimous election of communists in the district of Vereia. After a short time peasant revolts started. To put down these, Chinese and Letts were sent and about 300 peasants were killed. Then began arrests, but it is not known how many were executed.

### 3. EXTRAORDINARY COMMISSIONS.

The "Extraordinary Commissions to Combat Counter-Revolution, Speculation, and Sabotage," were introduced in the first months of the Bolshevik regime. The local Extraordinary Commissions were organized by local committees of the Communist Party, and only later was their assumption of governmental functions sanctioned. (Weekly of All-Russian Extraordinary Commission, Oct. 27, 1918.) The Extraordinary Commissions have at moments claimed an authority superior to that of the Soviets (Weekly of the All-Russian Extraordinary Commissions, Oct. 27, 1918), and have always been the main instruments of oppression. The All-Russian Extraordinary Commission defines its position in the closing paragraph of a recent proclamation (Izvestia, Apr. 2, 1919):

The All-Russian Extraordinary Commission, established by the will of the Soviet authority to protect the revolution, warns all enemies of the workman class that in order to save hundreds of thousands of innocent victims from the explosions and excesses, in order to save the conquests of the October revolution, it will suppress with a pitiless hand all attempts at uprising and will choke all appeals for the overthrow of the Soviet authority.

(Signed) ALL-RUSSIAN EXTRAORDINARY COMMISSION.

From the many proclamations issuing from the Extraordinary Commissions the following have been selected as typical:

#### COUNTER-REVOLUTIONISTS TO BE SHOT.

##### From the All-Russian Extraordinary Commission to Combat Counter-Revolution.

The All-Russian Extraordinary Commission to Combat Counter-Revolution, Sabotage, and Speculation, of the Council of People's Commissaries, brings to the notice of all citizens that up to the present time it has been lenient in the struggle against the enemies of the people.

But at the present moment, when the counter-revolution is becoming more impudent every day, inspired by the treacherous attacks of German counter-revolutionists; when the bourgeoisie of the whole world is trying to suppress the advance guard of the revolutionary International, the Russian proletariat, the All-Russian Extraordinary Commission, acting in conformity with the ordinances of the Council of People's Commissaries, sees no other way to combat counter-revolutionists, speculators, marauders, hooligans, obstructionists, and other parasites, except by pitiless destruction at the place of the crime.

Therefore the commission announces that all enemy agents, and counter-revolutionary agitators, speculators, organizers of uprisings or participants in preparations for uprising to overthrow the Soviet authority, all fugitives to the Don to join the counter-revolutionary armies of Kaledin and Kornilov and the Polish counter-revolutionary legions, sellers and purchasers of arms to be sent to the Finnish White Guard, the troops of Kaledin, Kornilov and Dobbor-

Musnitsky, or to arm the counter-revolutionary bourgeoisie of Petrograd, will be mercilessly shot by detachments of the commission at the place of the crime.

ALL-RUSSIAN EXTRAORDINARY COMMISSION.

PETROGRAD, *February 22, 1918.*

(Krasnaya Gazeta, publication of Petrograd Soviet of Workmen's and Soldiers' Deputies, Feb. 23, 1918.)

[From the President of the All-Russian Extraordinary Commission.]

In view of the discovery of a conspiracy which aimed to organize an armed demonstration against the Soviet authority by means of explosions, destruction of railways and fires, the All-Russian Extraordinary Commission warns that demonstrations and appeals of any kind will be suppressed without pity. In order to save Petrograd and Moscow from famine, in order to save hundreds and thousands of innocent victims, the All-Russian Extraordinary Commission will be obliged to take the most severe measures of punishment against all who will appeal for White Guard demonstrations or for attempts at armed uprising.

(Signed) F. DZERZHINSKY,

*President of the All-Russian Extraordinary Commission.*

(IZVESTIA, April 2, 1919.)

Wide discretionary powers are given to these Extraordinary Commissions. In April, 1919, Lenine, as president of the Soviet of Defense, sends a telephonogram to the All-Russian Extraordinary Commission in which he says:

In view of the information received, the Soviet of Defense orders that the most urgent measures be taken to suppress all attempts to cause explosions, to destroy railways, and all appeals for strikes.

The Soviet of Defense calls on all workers in the Extraordinary Commission to be specially watchful, and to report to the Soviet of Defense all measures adopted.

(For full text of order see Appendix V, p. 32.)

The Bolshevik newspapers, especially the official *Izvestia*, have special columns devoted to reports on the activities of the Extraordinary Commissions, which show the range of cases that come under their jurisdiction: Acts of terror, anti-Soviet sermons or agitation, disobedience of orders respecting dwellings and speculation. (See Appendixes VI and VII, p. 32.)

The character and methods of the Extraordinary Commissions are well illustrated by such items as the following, from the *Severnaya Kommuna* of October 17, 1918:

The Extraordinary Commission has organized the placing of police agents in every part of Petrograd. The commission has issued a proclamation to the workmen exhorting them to inform the police of all they know. The bandits, both in word and action, must be forced to recognize that the revolutionary proletariat is watching them strictly.

The following is a communication from the President of the All-Russian Extraordinary Commission, reprinted from the *Izvestia*, in the *Russkaya Zhizn* of May 10, 1919:

A whole series of disorders that have taken place recently show that even the Left Socialist-Revolutionaries and Mensheviks wish to win the laurels of Krasnov (anti-Bolshevist general).

Their work is devoted entirely to the disorganization of our army (in Briansk, Samara, and Smolensk) and to disruptions of our industries (in Petrograd and Tula), of our transport and food supply services (railway strikes).

The All-Russian Extraordinary Commission herewith declares that it will make no distinction between White Guardists of the Krasnov type and White Guardists of the parties of Mensheviks and Left Socialist-Revolutionaries.

The punishing arm of the Extraordinary Commission will fall with equal severity on the heads of both groups.

The Left Socialist-Revolutionaries and Mensheviks that have been arrested by us will be considered hostages and their fate will depend on the conduct of these two parties.

F. DZERZHINSKY, ...

*President of the All-Russian Extraordinary Commission.*

Newspaper reports that the powers of these Extraordinary Commissions had been recently curtailed were not supported by a report from an American representative of July 2, 1919:

The Extraordinary Commission obtained the right to execute without judgment only in places where martial law was declared. But as the cities are long ago under martial law and in other parts of Soviet Russia martial law can be declared any time, nothing has changed. In fact, prisoners it is desired to shoot without judgment are simply brought to Moscow, as it was done February last with those officers of the organization in Vladimir.

(For full report of this date, see Appendix XIII, p. 35.)

Any changes in the personnel of the ruling group in Soviet Russia have to date meant always a more tyrannical régime, as shown by a report from an American representative of September 15, 1919:

Peters has been obliged to resign as commandant of Petrograd and has been replaced by the ex-lawyer Koslovsky who was known for his relations with German agents during Kerensky's régime. Koslovsky has issued a proclamation saying that all crimes by White Guardists must be considered as committed by the entire bourgeoisie, and therefore all hostages must be killed at the least attempt on the safety of the government, and those guilty must be executed on the spot without trial or judgment.

#### 4. TERROR.

The Extraordinary Commissions represent legalized terror, an instrument in the class war which is a fundamental principle of the Bolshevik doctrine. Terror was carried to one of its highest points of development in the fall of 1918. The American Consul General at Moscow reported as follows on September 3:

The situation of allied citizens here is dangerous but that of the Russians has already become tragic in the extreme. Complete suppression of all but Bolshevik papers since July 1 and imperfect communication abroad have no doubt left the outside world hardly more than a suggestion of the true situation in Central Russia.

Since May the so-called extraordinary commission to combat counter-revolution has conducted an openly avowed campaign of terror. Thousands of persons have been summarily shot without even the form of trial. Many of them have no doubt been innocent of even the political views which were supposed to supply the motive of their execution. The assassination of Uritsky and the attempt on Lenin are the results of this high tyranny. Socialists once coworkers with the Bolsheviks have turned against them the methods by which they formerly attacked the tyranny of the tsars.

"Mass terror" is the Bolsheviks' reply. The official press publishes to-day the following from Petrograd: "In connection with the murder of Uritsky five hundred persons have been shot by the order of the Petrograd Extraordinary Commission to Combat Counter-Revolution. The names of the persons shot and those of candidates for future shooting, in case of a new attempt on the lives of the Soviet leaders, will be published later." In Moscow "general searches" are being made under general orders to arrest "the better-to-do and all former officers." The ill-administered prisons are filled beyond capacity and every night scores are irresponsibly shot. Sentence is passed on the slightest grounds or the general charge "might be dangerous to the Bolshevik power." The situation cries aloud to all who will act for the sake of humanity.

A copy of this telegram was furnished at the time by the Consul General to Chicherin, the Bolshevik Commissary for Foreign Affairs, and to Bonch-Bruевич, the Executive Secretary of the Council of People's Commissaries, in the hope that they might be influenced, by consideration of the effect of news of the terror upon public opinion abroad, to endeavor to terminate it. They gave no heed to the protest.

Recourse is also had to mass terror, which is carried on through all agencies of the Government. The following general incitement to terror was telegraphed broadcast in Soviet Russia on September 2, 1918:

Murder of Volodarsky and Uritsky, attempt on Lenin and shooting of masses of our comrades in Finland, Ukrania, the Don and Czecho-Slovakia, continual discovery of conspiracies

in our rear, open acknowledgment of Right Social Revolutionary party and other counter-revolutionary rascals of their part in these conspiracies, together with the insignificant extent of serious repressions and mass shooting of White Guards and bourgeoisie on the part of the Soviets, all these things show that notwithstanding frequent pronouncements urging mass terror against the Socialists-Revolutionaries, White Guards and bourgeoisie, no real terror exists.

Such a situation should decidedly be stopped. End should be put to weakness and softness. All Right Socialist-Revolutionaries known to local Soviets should be arrested immediately. Numerous hostages should be taken from the bourgeois and officer classes. At the slightest attempt to resist or the slightest movement among the White Guards, mass shooting should be applied at once. Initiative in this matter rests especially with the local executive committees.

Through the militia and extraordinary commissions, all branches of government must take measures to seek out and arrest persons hiding under false names and shoot without fail anybody connected with the work of the White Guards.

All above measures should be put immediately into execution.

Indecisive action on the part of local Soviets must be immediately reported to People's Commissary for Home Affairs.

The rear of our armies must be finally guaranteed and completely cleared of all kinds of White Guardists, and all despicable conspirators against the authority of the working class and of the poorest peasantry. Not the slightest hesitation or the slightest indecisiveness in applying mass terror.

Acknowledge the receipt of this telegram.

Transmit to district Soviets.

(Signed) PETROVSKY.

(Weekly of the All-Russian Extraordinary Commission, No. 1. Moscow, September 21, 1918.)

Mass terror was again officially instituted in Petrograd in July, 1919; it continues to date according to the latest reports. The following sentences from the proclamation issued by Peters, "To the citizens of Petrograd and environs," are taken from the Izvestia of the Petrograd Soviet for July 4, 1919:

Mass searches recently conducted with the direct participation of the Petrograd Proletariat and also the voluntary giving up of arms. \* \* \* However, the result of the mass and individual searches that still continue, and the turning in of arms, show that not all of the arms have been given up. \* \* \* Workmen and workwomen of Petrograd. \* \* \* Search the cellars, the attics, sheds, living quarters, and all places. \* \* \* At the same time, in order to meet the weak-spirited and those who do not read orders carefully, I now for the last time fix the time limit for the voluntary giving up of arms. \* \* \* There will be no quarter for those who do not take advantage of this last postponement. Failure to carry out this order will this time be regarded by me as a deliberate, counter-revolutionary ignoring of the ordinances of the Soviet authority, and will call forth a corresponding attitude on my part. (For full text see Appendix VIII, p. 33.)

Trotsky has tried to justify mass terror (extract from signed article in *Izvestia* of Jan. 10, 1919, under title "Military Specialists and the Red Army"):

By its terror against saboteurs the proletariat does not at all say: "I shall wipe out all of you and get along without specialists." Such a program would be a program of hopelessness and ruin. While dispersing, arresting and shooting saboteurs and conspirators, the proletariat says: "I shall break your will, because my will is stronger than yours, and I shall force you to serve me." \* \* \* Terror as the demonstration of the will and strength of the working class, is historically justified, precisely because the proletariat was able thereby to break the political will of the Intelligentsia, pacify the professional men of various categories and work, and gradually subordinate them to its own aims within the fields of their specialties.

##### 5. CLASS DISCRIMINATION IN FOOD RATIONS

In the fall of 1918, the Bolsheviks began a discrimination in the distribution of food, which operates, on the one hand, to lessen opposition through starvation, and on the other, to bring into the ranks of their active supporters many unconvinced but despairing recruits. By this system, which still subsists (see Appendixes

IX, X and XI, p. 34), the population is divided into categories along occupational and class lines, and receives food, so far as food may be available, in accordance with a scale which is adjusted with a view to the maintenance of the Bolsheviks in power and the fulfillment of their program for the extinction of the middle classes. The ration given to members of the Red Army is estimated by the *Izvestia* of February 6, 1919, to be three times the average for the several categories of the civil population. The following is taken from an article by a Bolshevik official, in an *Izvestia* of May 1-14, 1919, describing what happened in the Volga district as the Bolsheviks advanced:

Instructions were received from Moscow to forbid free trade, and to introduce the class system of feeding. After much confusion, this made the population starve in a short time, and rebel against the food dictatorship \* \* \*. "Was it necessary to introduce the class system of feeding into the Volga district so haphazardly?" asks the writer. "Oh no. There was enough bread ready for shipment in that region, and in many places it was rotting, because of the lack of railroad facilities. The class feeding system did not increase the amount of bread \* \* \* it did create, together with the inefficient policy, and the lack of a distribution system, a state of starvation, which provoked dissatisfaction."

## 6. RED ARMY.

The Red Army ceased to be an army of volunteers by May of 1918. At first only the workmen and poorest peasants of certain districts were mobilized (Ordinance of All-Russian Central Executive Committee of May 16, 1918). Later all classes were mobilized (Mobilization Order No. 4, *Izvestia*, Sept. 26, 1918), and by this order the local military commissariats, the heads of families, presidents of Soviets, of committees of poverty, factory committees and house committees, at the place of work or residence of the man called to the colors, were held responsible for the nonappearance of the conscripted citizen. "Regimental committees, acting as administrative organs, can not exist in the Soviet army," says a pamphlet issued by the All-Russian Central Executive Committee in 1918. The organization of the Red Army will be studied, it is expected, in a subsequent memorandum. Attention is called to the Red Army at this point because it also illustrates the oppressive character of the Bolshevik rule. It is

used to handle the growing discontent, to solve the unemployment problem, and to collect food through "requisitioning detachments." The Red Army is the instrument of a minority. Great care is taken in selecting the soldiers for the actual combat corps:

#### DECREE ON MOBILIZATION OF PEASANTS.

The meaning of the decree that is introduced on the initiative of the Council of Peoples' Commissaries is that each Canton must furnish 10 to 20 fighters who are tested, cooperators of the Soviet authority and have been recommended by the cantonal executive committees. Experience has shown that it is better to take a small number of class conscious fighters than an enormous mass of unconscious. The decree is adopted unanimously. (Petrograd Pravda, Apr. 27, 1919.)

#### RESOLUTION OF PETERSBURG SOVIET.

For the struggle against Kolchak, the Petersburg Soviet decrees to mobilize 10 per cent of all members of trade unions and 20 per cent of all communists and "candidates." To this end men are to be replaced in all Executive Committees, Commissariats, Unions of the Youth, organs of the Proletcult (Proletarian Culture), etc., by women, and for those mobilized whose years have not been called in, the conditions of subsistence and salary remain the same as previously published \* \* \*." (Petrograd Pravda, Apr. 27, 1919.)

Writing in the Petrograd Pravda of August 12, 1919, Trotsky used the following expressions:

The mobilization of the 19-year-old and part of the 18-year-old men, the inrush of the peasants who before refused to appear in answer to the mobilization decree, all of this is creating a powerful, almost inexhaustible, source from which to build up our army. \* \* \* From now on any resistance to local authorities, any attempt to retain and protect any valuable and experienced military worker is deliberate sabotage. \* \* \* No one should dare to forget that all Soviet Russia is an armed camp. \* \* \* All Soviet institutions are obliged, immediately, within the next month, not only to furnish officers' schools with the best quarters, but, in general, they must furnish these schools with such material and special aids as will make it possible for the students to work in the most intensive manner. \* \* \*

## 7. SOCIAL RECONSTRUCTION AND EDUCATION.

Bolshevist programs for social reconstruction and education are comprehensive and in some respects good. Many decrees have been issued on this subject, but Lenin explained to the Eighth Congress of the Communist Party:

If we had expected that the whole life of the village could be changed by the writing of thousands of decrees, we certainly would have been complete idiots; but if we had failed to indicate the road in decrees, we would have been traitors to Socialism. These decrees, which in actual practice would not be carried out immediately and fully, have played an enormous role for propaganda. (For full text of this speech, see Appendix III, p. 28.)

An analysis of these measures, with an attempt to determine to what extent they have been actually realized, will, it is hoped, be given in a subsequent memorandum. In the two centers, Petrograd and Moscow, something seems to have been accomplished, but the descriptions of conditions in peasant villages given in the following paragraphs indicate that the "proletarian culture" has not reached very far.

## 8. PEASANT PROTESTS.

The peasants particularly have felt the tyranny of the "dictatorship of the proletariat," as applied by representatives of the Soviet authority. The Bolshevist leaders themselves realize what has developed in actual practice and try vainly to check the current they started by appeals to their collaborators (see Lenin's Report to Eighth Congress of Communists Party, Appendix III, p. 28), or by themselves exposing the true facts of the situation, as in the following articles selected from the Moscow Izvestias of May 1-14, 1919:

From the Province of Vitebsk the following letter came to the Izvestia:

"Of late there has been going in the village a really scandalous orgy. It is necessary to call attention to the destructive work of the scoundrels who worked themselves into responsible positions. Evidently all the good and unselfish beginnings of the workmen's and peasants' authority were either purposely or unintentionally perverted by these adventurers in order to undermine the confidence of the peasants

in the existing government in order to provoke dissatisfaction and rebellion. It is no exaggeration to say that no open counter-revolutionary or enemy of the proletariat has done as much harm to the socialist republic as the charlatans of this sort. Take, as an instance, the third district of the government of Vitebsk, the county of Veliashkov. Here the taxes imposed upon the peasants were as follows: P. Stoukov, owning 17 desiatins, was compelled to pay a tax of 5,000 rubles, while U. Voprit, owning 24 desiatins, paid only 500 rubles. S. Grigoriev paid 2,000 on 29 desiatins, while Ivan Tselov paid 8,000 on 23 desiatins." (Quoting some more instances the writer adds that the soil was alike in all cases. He then brings some examples of the wrongs committed by the requisitioning squads.

Latkin, a Red Army soldier, returned from a journey through several counties of the Province of Moscow, gave to the *Izvestia* of May 7, 1919, the following description of the frame of mind of the peasant, which he describes as very gloomy:

The peasants are dissatisfied with the war, are against the Red Army, and therefore give protection to deserters and persuade the soldier not to obey orders. The middle peasant is beginning to cooperate with the village capitalists in their resistance to the Soviet authorities. (The *Izvestia* adds to the story of Latkin its own comment, consisting of a question as to why the peasants are dissatisfied and takes Latkin to task for not suggesting remedies and for having failed to enlighten the peasants.)

From a village in the Province of Tambov one Vopatin writes to the *Izvestia*, as follows:

Help! we are perishing! At the time when we are starving, do you know what is going on in the villages? Take, for instance, our village, Olkhi. Speculation is rife there, especially with salt, which sells at 40 rubles a pound. What does the militia do? What do the Soviets do? When it is reported to them, they wave their hands and say, "This is a normal phenomenon." Not only this, but the militiamen, beginning with the chief and including some communists, are all engaged in brewing their own alcohol, which sells for 70 rubles a bottle. Nobody who is in close touch with the militia

is afraid to engage in this work. Hunger is ahead of us, but neither the citizens nor the "authorities" recognize it. The peoples' judge also drinks, and if one wishes to win a case one only needs to treat him to a drink. We live in a terrible filth. There is no soap. People and horses all suffer from skin diseases. Epidemics are inevitable in the summer. If Moscow will pay no attention to us, then we shall perish. We had elections for the village and county Soviets, but the voting occurred in violation of the constitution of the Soviet Government.

As a result of this a number of village capitalists, who, under the guise of communists, entered the party in order to avoid the requisitions and contributions, were elected. The laboring peasantry is thus being turned against the Government, and this at a time when the hosts of Kolchak are advancing from the east.

The following statement is taken from the report on a Bolshevik investigation of peasant uprisings (Izvestias, May 1-14, 1919):

The local communists behave with rare exceptions abominably, and it was only with the greatest difficulty that we were able to explain to the peasants that we also were communists.

#### 9. SUMMARY.

An American representative at the Finnish frontier gathering information from refugees from Soviet Russia, reports as follows, under dates of June 25 and July 2, 1919:

The fall of Bolshevism, which seemed inevitable even two months ago, has created the wildest terrorism. People are executed without trial in masses on mere suspicion of sympathy with the Soviet's enemies. \* \* \* Terror and necessity compel work for the Soviet Government but this work is much encumbered by theory, inexperience, and corruption. \* \* \* There will be a slaughtering of Bolsheviks as soon as the deliverers are near the centers and the Red terror ceases to be feared, but terror, hunger, and disease have temporarily created apathy. \* \* \* The strength of the Bolsheviks lies in their organization. Terror, combined with most elaborate espionage at home and propaganda in and behind the ranks of the enemy make them still a formidable force.

Terror is daily increasing and people are being shot not only for agitation against the Soviet Government but for any other accusation. The fact of not being in the Soviet service, of having relatives who are abroad, or the possibility of intending to join a new government is sufficient reason for execution \* \* \*. Espionage and provocation are developed to the highest perfection. Agents of the Extraordinary Commissions are everywhere, in all departments, railroad carriages, streets, and private houses.

(For full text of these reports, see Appendixes XII and XIII, p. 35.)

## II. ECONOMIC RESULTS OF BOLSHEVIST CONTROL.

### 1. BLAME ON OTHERS.

The economic collapse of Soviet Russia is admitted by the Bolsheviks themselves, as is seen in some of the quotations from their own newspapers given below. The Bolsheviks, however, blame the incompetence of the old Tsarist régime, and of the Lvov and Kerensky governments, and economic isolation or blockade for the desperate situation to which they have brought Russia. Some of these factors have indeed contributed to the breakdown of the economic life of the country. But Bolshevik theories and methods have unquestionably been the main cause of the chaos one finds in Soviet Russia after two years of the Bolshevik régime.

### 2. ABANDONMENT OF PRINCIPLES.

The admitted failure and consequent abandonment of many of their economic tenets may, it is hoped, be analyzed in a subsequent memorandum. "Nationalization" in the sense of "communization" of the land would seem to have been definitely rejected, though only during the last months. The Supreme Soviet of National Economy, the highest Soviet authority for all economic problems, has come under the control of a very small group of men. Workmen's control was abolished after a few months of trial. These facts are frankly admitted by the Bolsheviks themselves.

### 3. POLICY OF DESTRUCTION.

During the first period the avowed aim of the Bolsheviks was first of all to destroy all the institutions of the old order. (See Lenin's Theses of March, 1919, Appendix II, p. 25.) It was

emphasized that this had to be done before constructive work could be undertaken. In October, 1918, the constructive period was supposed to have arrived. But as it was somehow delayed in economic fields, the Bolshevik sympathizers began to emphasize constructive efforts along social and educational lines. As already pointed out, social reconstruction and educational work has been limited to the constantly decreasing minority of the urban proletariat in the large cities. The majority of those who have observed the Bolsheviks at work, unanimously agree that there has been little evidence of constructive accomplishments, even when the Bolsheviks abandon their principles, falling back into some of the so-called capitalistic methods, and bringing in "bourgeois" experts. Others emphasize that the majority of the Bolshevik administrators have practiced and extended the generally recognized, and condemned, abuses of the "capitalist" system, to the distress of such idealists as may be among them. (See reports on All-Russian Extraordinary Commissions, which combat speculation, as well as counter-revolution and sabotage. Appendix VI, p. 32.)

#### 4. THE BUDGET.

It is naturally difficult to document from the Bolshevik newspapers the statement respecting the absence of constructive accomplishments. They publish their budget for the first half year of 1919, showing a deficit of some 30,000,000,000 rubles. A study of the items of this budget shows the large expenditures for their governmental machinery: "All-Russian Central Executive Committee — 459,156,743 rubles"; and enormous appropriations for the "Red Army — 12,149,770,487 rubles." The Bolshevik publicists, in discussing the budget, try to explain away this enormous deficit. (See article in *Ekonomicheskaya Zhizn*, May 21, 1919, Appendix XIV, p. 39.) One writer, in the *Severnaya Kommuna* of March 23, 1919, finds the solution:

The deficit of 28,744,702,112 rubles can be covered only by emission of paper money. This is an inevitable situation until the economic restoration of the country, and until the government has at its disposition, as the result of the nationalization of production and commerce, the greater part of the articles of consumption. The economic restoration depends on the reconstitution of Russia and its entering into commercial relations with foreign countries.

The writer, however, calls attention to the depreciation of the ruble, and to the general high cost of living and shortage of products in other countries:

The budget figures are certainly colossal, but it is necessary to consider the depreciation of the ruble; 50,000,000,000 rubles become in reality 5,000,000,000, which is normal in view of contemporary high cost of living and shortage of products in the whole world.

##### 5. ISSUE OF PAPER MONEY.

The Bolsheviks have in fact resorted to the expedient of issuing more paper money to meet the crisis they have produced. The *Ekonomicheskaya Zhizn* (May 21, 1919), which is the most important official publication on economic matters, gives the following table of the amount of paper money in circulation:

	Rubles.
Issues before the revolution (March, 1917)	9,950,000,000
Issued by the Kerensky government.....	8,967,000,000
Issued by Bolsheviks to January, 1919...	36,353,000,000
<hr/>	
(In the form of Tsar rubles (approximately)	20,000,000,000
Issued before the revolution (March, 1917)	9,950,000,000
<hr/>	
Tsar rubles printed and issued by Bolsheviks . . . . .	10,050,000,000
<hr/>	
In the form of Duma and Kerensky rubles.	35,270,500,000
Issued by Kerensky government . . . . .	8,967,000,000
<hr/>	
Duma and Kerensky rubles issued by Bolsheviks . . . . .	26,303,500,000
<hr/>	

These figures are exclusive of the various issues made in order to supply local needs at various times.

In order to meet this situation, the following decree was issued on May 15, 1919:

For the purpose of gradual conversion of all the paper currency at present in circulation, which state of affairs is not in accord with the principles of the new form of government existing in Russia, as well for the sake of excluding

from circulation of the various money substitutes, which have been issued to meet the shortage of paper currency, the Council of People's Commissaries has decreed to issue a new paper currency (1918 model) on the following basis:

1. The new bills will be issued in denominations of 1, 3, 5, 10, 25, 50, 100, 250, 500, and 1,000 rubles.

2. The aforesaid bills will be legal tender on the whole territory of the Russian Socialistic Federated Soviet Republic for any amount and in any institutions.

3. All moneys in circulation at present continue as legal tender on the same basis as the new money. The People's Commissariat for Finance shall determine dates and regulations governing the redemption of all moneys in circulation now for the new bills.

4. The emission of the new bills of 1918 model is to begin on the 1st of June, 1919, in the usual manner by the People's Bank.

5. The People's Bank has the right to issue bills above the limit established by the decree of December 25, 1918, in accordance with the actual needs of state economy in money.

V. ULIANOV (LENIN),

*President of the Council of People's Commissaries.*

N. KRESTINSKY,

*People's Commissary for Finances.*

V. BONCH-BRUEVICH,

*Executive Secretary.*

L. FOTIEVA,

*Secretary.*

(*Ekonomicheskaya Zhizn*, May 21, 1919.)

This decree refers to redemption of former issues, regulations for which will be published later. What the Bolsheviks really have in mind is to force the peasants to sell their products. This was explained very frankly by one of the commissaries:

*Currency plans.*—Zorin tells me that the Soviet Government has or had printed a new issue of currency which it is proposed to exchange for the old currency within the next three months. The details of the plan have not been completed, but he thinks that an exchange of ruble for ruble will be made up to 3,000; an additional 2,000 will be placed on

deposit in the Government bank. That beyond 5,000 only a small percentage will be allowed to anyone, and that a limit of possibly 15,000 will be placed beyond which no rubles will be exchanged. Then the plan is, after a certain period, to declare the old ruble valueless. Zorin feels that as a result of this plan the new ruble will have some value and that the present situation in the country in which the farmer has so much paper that he refuses to sell any longer for money, will be relieved. This exchange would be followed later on by the issue of still other currency, the entire purpose being the more equal distribution of wealth and the gradual approach to elimination of currency. (Memorandum of W. W. Pettit, Apr. 4, 1919, to American Peace Mission. Hearings on Treaty of Peace with Germany before the Committee on Foreign Relations, United States Senate, p. 1288.)

#### 6. DISORGANIZATION OF ADMINISTRATIVE MACHINERY.

The complete disorganization of the administrative machinery is frankly admitted by Rykov, the president of the Supreme Soviet of National Economy, in a statement to the Moscow Soviet on March 4, 1919:

We have 100,000,000 puds of coal, 10,000,000 puds of grain, and several million puds of fish at our disposal which we can not move. In the spring a part will spoil. Transport is impossible, as we have no fuel, and the situation regarding the want of it is that 2,000,000 puds of machine oil had to be used as substitute for want of liquid fuel. Railroad communication will have to be reduced, which will again reflect on the supply of food. We have, therefore, to utilize transport by river as soon as navigation is opened. We also will have to fight with the local Soviets, who often hide their stocks, as for instance the Yaroslav Soviet hiding 500,000 puds of petroleum. The textile industry is also in a critical state; up to 10,000,000 puds of cotton is wanted and flax is scarce, as the peasants spin for their own want or use it for heating purposes. A way out of these difficulties would be to take the Caucasus with its supply of petroleum and to increase productiveness of labor. At present we produce only 5 pairs of boots for 100 people, and however so many Kerensky rubles we would pay to workmen only 1 in 20 can receive a pair. (Severnaya Kommuna, Mar. 7, 1919.)

### 7. PRODUCTIVITY OF LABOR.

The official organ of the trade unions of Petrograd, the *Trud*, of April 28, 1919, in discussing the closing down of 19 textile mills, notes the following reasons for the economic chaos:

Of great significance in our textile crisis is also the inefficient using of what could be used, as the productiveness of labor has dropped to nil, while there is not even a hint of labor discipline, and the machines have become useless as the result of careless handling, and their productive capacity lowered.

A similar situation had developed in Moscow:

At a conference of the main administrative boards of textile enterprises the question of closing down textile factories was discussed. As a result of the debates it was resolved to consider inexpedient the closing down of factories, to recognize as necessary only the partial closing down in dependence on local conditions and the situation of the various enterprises of the textile industry.

It was also resolved to take measures to preserve the basic groups of workmen in these enterprises, and to establish them in necessary work during the period of the closing down of factories. It was also resolved to use the period of closure to make repairs and to lay in supplies of raw material and fuel, and also to use these workmen for agricultural work. The question of closing down all textile industries will be decided finally at a joint conference of representatives of the main administrative board and of the trade union of textile workers. (Moscow *Izvestia*, Apr. 3, 1919.)

### 8. INDUSTRIAL COLLAPSE.

One of the results of the disorganization of the textile industry was the following:

The official estimate of cloth needs for Moscow for 1919, its population being given as 600,000 adult males, 700,000 adult females, and 300,000 children, is as follows:

	Araheens
Heavy cloth .....	2,386,670
Light cloth .....	12,116,670
Cotton cloth .....	52,066,670

During September, October, and November altogether 5,000,000 arsheens of cloth have been issued to the population, which is considered one-third of the actual needs. (Izvestia, Feb. 6, 1919.)

Other branches of industry were collapsing in the late autumn of 1918, at the very moment when it was said that the "constructive period" had arrived in Soviet Russia:

The quantity of benzine is so small that "Provodnik," (one of the largest rubber manufacturing enterprises of Russia), has only enough to last for two months; the factories of "Bogatyr" are still more inadequately supplied with rubber. The stocks of rubber are barely sufficient for another two months' production. The number of workmen employed has fallen from 32,000 to 7,500. (From the official Bolshevik newspaper, National Economy and Finances, Nov. 12, 1918.)

The disorganization of sugar manufacture and beet-root production led to an almost total lack of sugar. The occupation of the Ukraine by the Germans was emphasized as the cause of this particular crisis. There was frank admission, however, that disorganization within Soviet Russia also was a contributing factor. The Red Army was to be supplied with sugar, however:

A total lack of sugar is inevitable. Out of the 238 sugar manufactories, only 32 are on the territory actually belonging to the Soviets. The majority of these factories are out of working order. On the other hand, the land planted with beet root is very inconsiderable. At the most it would only be possible to produce 7,000,000 puds of sugar if the ground planted (actually 10,000 desiatins) were increased to 70,000 desiatins. The population needs at least 35,000,000 puds of sugar. Therefore, it is to be feared that only the Red Army will be able to obtain sugar next year. (Official newspaper, National Economy and Finances, Nov. 12, 1918.)

Many other Bolshevik statements, such as the following, might be quoted to show the economic chaos that has come to Soviet Russia under the Bolshevik economic program:

Out of 33 cement factories existing in Russia, only 14 are in a position to be used, but on account of the shortage of

fuel, none of those factories are working at present. The reserves of cement amount to 1,080,000 tons, whereas formerly, the annual production amounted to 18,000,000 tons. If 50 per cent of the present actual annual production of coal were used for the production of cement only three factories could work, thus producing the annual output of 1,600,000 tons. (National Economy and Finances, Nov. 12, 1919.)

#### 9. BREAKDOWN OF TRANSPORTATION.

The breakdown of all means of transportation has been the most serious aspect of the situation. Even river transportation, which is of great importance in Russia, has become disorganized:

Fifty per cent of the Russian internal steam and sailing mercantile fleet was not in a condition to resume navigation at the beginning of the present season, on account of the lack of workers, fuel, and the decrease in laborers' productivity. Altogether 1,407 steamers were registered and 2,146 other boats. (Moscow Izvestias, May 1-14, 1919.)

The railways are going to pieces in the literal sense of the phrase; locomotives have been scrapped at a disastrous rate and few are being produced:

At a meeting held in connection with the strike at the Putilov factory, Zinoviev said that from August, 1918, to February, 1919, the factory had only turned out 5 locomotives. For the year 1918 the factory had cost the State a deficit of 58,000,000 rubles. (Severnaya Kommuna, Mar. 15, 1919.)

An American representative reports from Finland, under date of August 27, 1919:

A report of the Commissariat of Railroads shows that there are only 250 locomotives now in commission in Soviet Russia. Of these 21 are operating on the Nicholas Railroad (Petrograd-Moscow).

The incompetence of the Bolshevist administrative departments has been described in published accounts by Russians who have served under the Soviet Government. German and English newspapers have published the personal experiences in Soviet offices of

British employees or German prisoners who had joined and worked with the Bolsheviks. Items in Bolshevik newspapers give less detailed but very definite pictures of muddling and lack of foresight:

From August, 1918, to February 20, 1919, the food supply department had bought up or requisitioned 82,633,582 puds of grain. Of this amount 22,245,172 puds could not be moved owing to the shortage of engines. A considerable portion of the above grain has since rotted. (Pravda, Mar. 15, 1919.)

The latest reports from American representatives stationed on the border of Soviet Russia give the prevailing prices in Petrograd for September 1, 1919:

Butter, 360 rubles a pound; salt, 91 rubles a pound; black bread, 130 rubles a pound; dog meat, 90 rubles a pound; and wood, 2,000 rubles a sazhen (approximately a half cord).

#### 10. FOOD SUPPLY.

A catastrophic situation with respect to the food supply is the natural result of what has been described above. This is reflected in the decree of the Council of People's Commissaries of February 28, 1919:

At the present moment horses are being killed for meat in large quantities and in a disorganized manner. Not only are horses that can not be used in the army or for work being killed, but also horses which might be used successfully by the peasants.

This state of affairs threatens catastrophe, interfering with the proper supply of the army, and also of the peasants, who in spring may not have sufficient horses to cultivate the fields.

In order to protect the horses within the limits of Petrograd: (1) It is absolutely forbidden to kill horses capable of work; (2) may be killed for meat horses with diseases, defects and wounds which make them incapable of work, and also such as have been discarded by the army, which can not be used for any kind of work; (3) the determination of incapacity of horses for work is entrusted to veterinary departments of Soviet institutions on whose orders horses may be killed \* \* \* (4) horses deliberately crippled or made incapable of work in order to secure permission to kill will

be confiscated and turned over to the local supply organs, and all persons guilty of such acts as well as persons found killing horses without the permission indicated in point 3 will be brought to trial before the Revolutionary Tribunal.

V. ULIANOV (LENIN),  
*President of Council of People's Commissaries.*

V. BONCH-BRUEVICH,  
*Executive Secretary.*

L. FOTIEVA,  
*Secretary.*

(Izvestia, Feb. 28, 1919.)

#### 11. DISTRESS IN AGRICULTURAL DISTRICTS.

Economic distress is not confined to the cities. An American representative reports from Finland under date of July 2, 1919:

The agricultural situation is desperate. All farm equipment stolen from the landlords' estate at beginning of the revolution is now spoilt, and there is no one to repair it, and it would not be of much use anyway as there are no seeds, and persons possessing do not intend sowing them, but try to sell on the sly, as the Bolheviki took the last autumn crop from the peasants at a low figure. Peasants just cultivate sufficient for their own needs and a quantity, which is allowed, is kept. Former private estates are managed by a commission of all kinds of rabble or by a Soviet steward. In most cases all that was left of the estate has disappeared; enormous accounts are presented and money received, and except immense losses the estate produces nothing. Live stock formerly stolen and sold by the Bolsheviks now is requisitioned from the richer peasants. (For full text see Appendix XIII, p. 35.)

#### 12. SUMMARY.

A well-known Russian Socialist and Revolutionist, Gregory Alexinsky, came out from Soviet Russia in the late spring of this year. He was interviewed for the Copenhagen Socialdemokraten and the interview was forwarded to Washington. This able summary of economic conditions in Soviet Russia has already been released to the press by the Department of State:

The condition of affairs in Bolshevik Russia is very distressing. The majority of the industrial enterprises are not

operating. In the Moscow district 63 textile factories stopped working last fall, and the same picture appears with respect to the textile industry in the vicinity of Ivanovo-Vozesensk near Petrograd, etc. The chemical industry, the paper industry, and many others are likewise in a miserable condition.

The Bolshevik Government has done everything to keep the work going in the plants that produce ammunition, but nevertheless many of them are shut down. Owing to the lack of rolling stock transportation is not good. Locomotives and cars needing repairs are so numerous that the workshops are unable to cope with the repairs.

In order to increase production in Russia the Bolsheviks already have reintroduced the forms which existed prior to the socialization, particularly payment for the piecework, the premium system, etc. In short, parity of wages does not exist.

This lamentable picture of our industry's decay has, he continues, led to terrible complications for the workmen on account of the great shortage of provisions and an enormous increase in prices. Bread, "black bread," rye bread because there is no wheat left, costs 35 to 40 rubles per pound in Petrograd; sugar, 180 to 200 rubles per pound; butter, 140 to 180 rubles; tea, 200 rubles; men's footwear, 1,200 to 1,500 rubles per pair, etc. Horse meat costs 30 rubles per pound. In Moscow prices are about on the same scale. On the big market in Moscow (Sucharevskaya) dog meat is being sold openly, and the official financial gazette publishes statistics showing fluctuations in the price of such meat (5 to 7 rubles per pound). Even a box of matches costs between 3½ and 4 rubles.

On account of shortage of provisions, fuel, soap, and other commodities that are absolutely indispensable for the public health and welfare contagious diseases are spreading everywhere. In Moscow the official statistical bureau calculates 10,000 cases of contagious diseases per week; of that number 8,000 cases are typhoid fever. In Petrograd 30 per cent of the patients in the communal hospitals die of ordinary consumption which is the result of famine.

In Petrograd there are only 700,000 inhabitants left out of 2½ millions.

(For full text of interview see Appendix XV, p. 41.)

### III. BOLSHEVIST PROGRAM OF WORLD REVOLUTION

#### 1. BOLSHEVISM INTERNATIONAL, NOT NATIONAL.

It is of the essence of the Bolshevik movement that it is international and not national in character. The revolution in Russia is but the first incident in the Bolshevik program. This thought occurs in almost every proclamation or discourse of Lenin and his associates. In his formal program-theses, when the negotiations for peace were in progress (Izvestia, Mar. 8, 1918), Lenin says:

There is no doubt that the Socialist Revolution in Europe must come and will come. All our hopes for the definitive triumph of Socialism are based on this conviction and on this **scientific prevision**. Our propagandist activities in general, and the organization of fraternization in particular, must be strengthened and developed. (For the full text of these theses, see Appendix XVI, p. 42.)

The Bolshevik propagandist, Bukharin, writes in chapter XIX of his pamphlet "The Program of the Communists" (Moscow, July 19, 1918):

The program of the Communist party is not alone a program of liberating the proletariat of one country; it is the program of liberating the proletariat of the world. (For full text see Appendix XVII, p. 45.)

That the Bolsheviks are playing an international game and aim directly at the subversion of all Governments is disclosed by the avowed tactics of their foreign policy. In his "Peace Program," published at Petrograd February, 1918, Trotsky says:

If in awaiting the imminent proletarian flood in Europe, Russia should be forced to conclude peace with the present day Governments of the Central Powers, it would be a provisional, temporary, and transitory peace, with the revision of which the European Revolution will have to concern itself in the first instance. Our whole policy is built upon the expectation of this revolution.

A similar attitude with respect to the Allies is disclosed even more strikingly in extracts from a speech made by Zinoviev, president of the Petrograd Soviet, speaking February 2, 1919, on the subject of the Princes Island proposal:

We are willing to sign an unfavorable peace with the Allies.  
\* \* \* It would only mean that we should put no trust

whatever in the bit of paper we should sign. We should use the breathing space so obtained in order to gather our strength in order that the mere continued existence of our Government would keep up the world-wide propaganda which Soviet Russia has been carrying on for more than a year.

In an address before an extraordinary session of the Moscow Soviet April 3, 1919, Lenin said:

Spring brings us again to difficulties but I believe this will be our last difficult six months. The Entente and the Anglo-French capitalists will not be able to maintain their pressure longer. On the other hand, the conquests of the Red Army in the Ukraine and on the Don have strengthened our internal position. No matter how great our difficulties, we have great hopes for victory, not only in Russia but throughout the entire world. \* \* \*

We are sure of our victory over the international Imperialists, and this for two reasons: First, because they have taken to fighting among themselves, and, second, because the Soviet movement is growing rapidly throughout the world. The situation of the Soviet Republic is improving every hour. The Imperialists are digging their own graves and there are plenty of people in their own countries who will bury them and pack the ground solid over their coffins.

The proletarian revolution in Hungary is proof of the spread of the Soviet movement. The Hungarian bourgeoisie has itself admitted that there is only one power in the world which can lead nations when the crisis comes and that is the Soviet power. Russia has given an example that the workmen of the whole world have understood.

I have hope that we shall live through all our trials and that to the Russian and Hungarian Soviet Republics will be added an international republic of Soviets. (Izvestia, April 5, 1919.)

## 2. TYPICAL PROCLAMATIONS.

Rushing from one front to the other the commander-in-chief of the Red Army issues proclamations and articles from his "Train of Comrade Trotsky," which is equipped with a printing press. This propaganda emphasizes the development of the revolutionary movement all over the world. The following sentences are

taken from a typical example of Trotsky's writings (signed article by Trotsky, Petrograd Pravda, Apr. 23, 1919; for full text see Appendix XVIII, p. 46):

The decisive weeks in the history of mankind have arrived. \* \* \*

Spring has come, the spring that decides; our strength is increased tenfold by the consciousness of the fact that the wireless stations of Moscow, Kiev, Budapest, and Munich exchange not only brotherly greetings, but also business agreements respecting common defensive struggle. \* \* \*

To carry out our international duty we must first of all break up the bands of Kolchak, in order to support the victorious workmen of Hungary and Bavaria. In order to assist the uprisings of workmen in Poland, Germany and all Europe, we must establish definitely and irrefutably the Soviet authority over the whole extent of Russia.

The Moscow wireless station sends out dozens of messages every day, and many of them are appeals for "world revolution." The message of August 31, 1919, from Moscow, "To all radio employees in Siberia, the Don, the Caucasus, and other occupied Russian districts," the concluding paragraphs of which follow, also illustrate Bolshevik methods of broadcast propaganda:

Every effort must be exerted so that all messages from Soviet Russia will come to the ears of all workers; let each radio message sent by your brothers from Soviet Russia be read by all workmen and peasants; let the workers of the whole world know that behind the Red Army follow happiness, peace and fraternity of all peoples. The hour is already not far distant when our Red regiments will clear the way and unite us in one family, and at the congress of radio employees of the whole of Russia our colleagues, amid general enthusiasm, will relate how, when employed at White Guard radio stations, they secretly worked as real proletarians, spreading and extending the workers' and peasants' radios beyond the boundaries of Soviet Russia, and boldly declare: "I was one of the participators in the world revolution!" We will say to those who played the part of traitors and turncoats during the decisive struggle between labor and capital: "The workmen will know how to deal

with you according to your deserts." All radio workers who wish to escape from the yoke of the counter-revolutionary regime can boldly fly to Soviet Russia, where everybody is guaranteed work, according to his specialty, in complete security.

In Soviet Russia everyone has the right to work. Long live the solidarity of all radio workers! Long live the solidarity of workers throughout the world! Long live the Socialist world revolution!

THE CENTRAL ADMINISTRATION ON THE  
RADIO SECTION OF THE ALL-RUSSIAN UNION OF  
WORKMEN AND EMPLOYEES OF NATIONAL COMMUNICATIONS.  
(Wireless News.)

### 3. COMMUNIST INTERNATIONAL.

The Communist International, established by the Bolsheviks in Moscow in March, 1919, issues appeals "To the toilers of the whole world." Such a proclamation was sent out by wireless, and reprinted in all the Bolshevik newspapers, in connection with May 1 of this year, from which the following paragraphs are taken:

The communist revolution grows. The Soviet republics in Russia, Hungary and Bavaria report what has been accomplished daily. Germany is shaking with civil war. A revolution is taking place in Turkey. In Austria and Czecho-Slovakia the workmen are gathering under the glorious flag of socialism. In France enormous demonstrations have started; in Italy the struggle boils and the workmen call for a dictatorship of the proletariat. In England strikes have taken on the character of an epidemic. In America the working class comes out on the streets; in Japan the workmen are agitated; in the neutral countries, like Holland and Switzerland hundreds and thousands of workmen recently took part in a political strike. The workmen of all countries have understood that the decisive moment has come. "Soviets"—by this you will conquer.

The workmen know that only a dictatorship of the proletariat can save humanity from that bloody horror into which the bourgeoisie in all countries has plunged it. The workmen know that the proletarian dictatorship will lead to a triumph

of socialism. There is no middle course. Either the bloody dictatorship of executioners-generals, who will kill hundreds of thousands of workmen and peasants in the name of the interests of a band of bankers, or the dictatorship of the working class, that is of the overwhelming majority of toilers which will disarm the bourgeoisie, create its own Red Army and free the whole world of slavery. Down with the autocracy of tsars and kings.

(For full text see Appendix XIX, p. 47.)

This world-wide and international character of Bolshevism is well stated by the American representative at Archangel in a report of July 30, 1919, forwarding and commenting on Bolshevik newspapers:

This sort of propaganda against the Peace Conference shows the imperialistic character of the present Moscow government which, while constantly pleading for noninterference in its own internal affairs never lets the people inhabiting its territory for a moment forget that the corner stone of its own foreign policy is to stir up strife and revolution in other countries.

#### 4. COMPROMISES TACTICAL.

When the Bolsheviks say they want peace and give assurances that they wish simply to be let alone in order to work out their experiment in Russia, such offers to compromise are, it has been shown, purely tactical. After the expulsion of the Bolshevik Ambassador Joffe from Berlin, Chicherin boasted of the millions of roubles taken to Berlin for propaganda purposes (official note to German foreign office in *Izvestia*, Dec. 26, 1918). Another illustration of the "scrap of paper" attitude of the Bolsheviks toward treaties is contained in a signed article (*Izvestia*, Jan. 1, 1919) on "Revolutionary methods," in which Joffe himself says:

Having accepted this forcibly imposed treaty (Brest-Litovsk), revolutionary Russia of course had to accept its second article which forbade "any agitation against the state and military institutions of Germany." But both the Russian Government as a whole and its accredited representative in Berlin never concealed the fact that they were not observing this article and did not intend to do so.

And this agitation continued even after the Bolsheviks had signed with Germany, August 27, 1918, the so-called supplementary treaties of Brest-Litovsk, which were not signed like the original treaty under seeming duress, but were actively sought for and gladly entered upon by the Bolsheviks.

By the supplementary agreement dealing with finance the Bolsheviks undertook to deliver to Germany "in compensation of losses sustained by Germans through Russian measures" 6,000,000,000 marks, of which one and one-half billions were to be paid partly in gold bullion and partly in paper money; 1,000,000,000 in Russian merchandise; two and one-half billion to be in the form of a loan to be guaranteed by certain state revenues and particularly the rent for "certain economic concessions which will be given to Germans;" the remaining 1,000,000,000 to be paid by the Ukraine or Finland, if the Bolsheviks might so arrange it, or in accordance with a special agreement to be made later. It was also agreed that all property of Germans in Russia, including bank deposits, expropriated by the Bolsheviks in pursuance of communist principles, should be returned to the former owners. Despite Bolshevik principles inheritance by Germans in Russia was also provided for.

English translations of the full texts of the supplementary treaties are published as Appendixes XX and XXI (pages 49 and ff).

## APPENDIXES

### I.

#### PROCLAMATION CALLING THE FIRST CONGRESS OF THE COMMUNIST INTERNATIONAL.

[Rosta, Official Telegraph Agency of the Bolsheviks, Feb. 24,  
1919.]

COMRADES: The undersigned parties and organizations consider it indispensable to call the first congress of the new Revolutionary International. During the war and the revolution it has become clear not only that the old socialistic and social-democratic parties have gone bankrupt, and the Second International with them, and that the elements included among the old Social-Democracy (the so-called "Center") were incapable of active revolutionary activity, but also that already now the framework is ready for the real revolutionary international. The gigantic pace of the world revolution which gives rise to new problems, the danger that this revolution may be killed by the alliance of the capitalistic states, which organize a "League of Nations" against the revolution, the attempt of the "traitor socialists" to gather, and after having "amnestied" each other, to assist their governments and the bourgeoisie again to betray the working class, and finally in view of revolutionary experience and for the purpose of internationalizing the whole course of the revolution, we were induced to take the initiative in placing on the order of the day the question of calling the revolutionary proletarian parties to an international congress.

#### AIM AND TACTIC.

According to our opinion, the new International must be based on the recognition of the following principles, which we present as the platform and which have been worked out in accordance with the programs of the "Spartacus Association" in Germany and the Communist (Bolshevik) Party in Russia:

1. The present is the period of destruction and crushing of the capitalistic system of the whole world, and it will be a catastrophe for the whole European culture, should capitalism with all its insoluble contradictions not be done away with.

2. The aim of the proletariat must now be immediately to conquer power. To conquer power means to destroy the governmental apparatus of the bourgeoisie and to organize a new proletarian governmental apparatus.

3. The new apparatus of the Government must express the dictatorship of the working class (and in certain places even the dictatorship of the half-proletariat in the villages, that is the peasant proletariat), that is, to persist in the systematic suppression of the exploiting classes and be the means of expropriating them. No false bourgeois democracy — this treacherous form of the power of a financial oligarchy — with its mere external equality — but a proletarian democracy able to realize the freedom of the working masses; no parliamentarism, but the self-government of the masses through their elected organs; no capitalistic bureaucracy, but governing organs which have been appointed by the masses themselves, through the real participation of these masses in the governing of the country and the socialistic work of reorganization — such ought to be the type of the proletarian state. The Soviet power or a corresponding organization of government is its concrete expression.

4. The dictatorship of the proletariat must be the occasion for the immediate expropriation of capital and the elimination of the private right of owning the means of production, through making them common public property. The socialization (meaning doing away with private property and making it the property of the proletarian state, which is managed by the workers on a socialistic basis) of the large-scale industries and the central bodies organized by the same, including the banks, the confiscation of the capitalistic agricultural production, the monopolization of large-scale commerce; the socialization of the large buildings in the towns and in the country; the establishment of a workmen's government and the concentration of the economic functions in the hands of the organs of the proletarian dictatorship — are the most essential aims of the day.

5. In order to protect the socialist revolution against external and internal enemies, and to assist the fighting proletariats of other countries, it becomes necessary to entirely disarm the bourgeoisie and its agents and to arm the proletariat.

6. The world situation demands immediate and as perfect as possible relations between the different groups of the revolutionary proletariat and a complete alliance of all the countries, in which the revolution has already succeeded.

7. The most important method is the mass action of the proletariat, including armed struggle against the Government power of capitalists.

### ATTITUDE TOWARD SOCIALIST PARTIES.

8. The old International has been divided in three main groups: the frank Socialist-Chauvinists, who, during the whole imperialistic war, 1914-1918, supported the bourgeoisie and undertook the role of executioners of the laborers' revolution; the "Center," the theoretical leader of which is Kautsky, and which within itself contains mostly wavering elements, who are unable to follow any decided lines, but sometimes are clearly traitorous to the International; and finally the Left Revolutionary Wing.

9. Toward the Socialist-Chauvinists, who everywhere and especially on the most critical occasions appear with arms in their hands against the proletarian revolution, we can only advocate a struggle without quarter, and toward the "Center" such a tactic as would separate the most revolutionary elements from the rest by criticizing and exposing the leaders. It is absolutely necessary to see to it that the labor organizations at a certain stage of development are kept from being controlled by the "Center."

10. It is necessary to organize the revolutionary elements among the workers who have not as yet joined the socialistic parties, but completely stand on the side of the proletarian dictatorship in the form which it has assumed in the Soviet system. Such are first of all the syndicalist elements of the workers.

11. Finally it is necessary to include all proletarian groups or organizations which, if they have not openly joined the left Revolutionary movement show, however, tendencies in that direction.

12. We propose that in the Congress should participate representatives of the following parties, groups and movements (which have the right to full membership in the Third International):

- (1) Spartacus-Association of Germany; (2) The Communist Party (Bolshevik) of Russia; (3) Communist Party in German Austria; (4) The Communist Party of Hungary; (5) The Communist Party of Poland; (6) The Communist Party of Finland; (7) The Communist Party of Esthonia; (8) The Communist Party of Lettland; (9) The Communist Party of Lithuania; (10) The Communist Party of White-Russia; (11) The Communist Party of the Ukraine; (12) The revolutionary elements within the Czech Social-Democracy; (13) The Social-Democratic Party of Bulgaria; (14) The Social-Democratic Party of Roumania; (15) The Left Wing of the Socialist Party of Serbia; (16) The Social-Democratic Left Party of Sweden; (17) The

Social-Democratic Party of Norway; (18) The Social Workers' Party of Denmark; (19) The Communist Party of the Netherlands; (20) The revolutionary elements within the Workers' Party of Belgium; (21 and 22) Groups and organizations within the socialist and syndicalist movements of France, mainly solidary with Lorient; (23) Left Social-Democrats of Switzerland; (24) Socialist Party of Italy; (25) The left elements within the Socialist Party of Spain; (26) The left elements of the Socialist Party of Portugal; (27) The Socialist Party of Great Britain (especially adherents of MacLean's groups); (28) The Socialist Labor Party (S. L. P.) of England; (29) I. W. W. (Industrial Workers of the World) of England; (30) I. W. of Great Britain; (31) The revolutionary elements of "shop steward" movement of England; (32) The revolutionary elements of the labor organizations of Ireland; (33) Socialist Labor Party of America (S. L. P.); (34) The left elements of the Socialist Party of America (S. P.) (especially that group which is represented by Debs and the socialist propaganda association); (35) I. W. W. of America; (36) I. W. W. of Australia; (37) Workers International Industrial Union (W. I. I. U.) of America; (38) Socialistic groups in Tokio and Yokohama (represented by Katayama); (39) Socialistic International Youth.

#### THE QUESTION OF ORGANIZATION AND THE NAME OF THE PARTY.

13. The Third International's basis has been worked out so that in different parts of Europe groups and organizations of similarly thinking people have been formed which join the same program and practically follow the same tactics. This first of all applies to the Spartacists in Germany and the Communist parties in many other countries.

14. The Congress must lay the foundation of a common fighting organ, which will be a uniting link, and methodically lead the movement of the center for the Communist International, which subordinates the interests of the movement in every separate country to the common interests of the Revolution on an international scale. The concrete forms for the organizations, the representation, etc., are to be worked out at the Congress.

15. The Congress shall be called "The First Communist International Congress" of which the different parties will form the sections. Marx and Engels even considered the name "Social-Democrats" theoretically wrong. The humiliating bankruptcy of the old "International" demands a new name. In addition, the

nucleus of the great movement is already formed by many parties, which have already taken the name of Communist.

In view of the above we propose that all affiliated parties and organizations take up, on the order of the day, the subject of calling an International Communist Congress.

With fraternal greetings,

THE CENTRAL COMMITTEE OF THE RUSSIAN COMMUNIST PARTY (LENIN, TROTSKY).

THE FOREIGN BUREAU OF POLAND'S COMMUNIST WORKERS' PARTY (KARSKI).

THE FOREIGN BUREAU OF HUNGARY'S COMMUNIST PARTY (RUDNJANSKI).

THE FOREIGN BUREAU OF THE GERMAN-AUSTRIAN COMMUNIST PARTY (OUDO).

THE RUSSIAN BUREAU FOR THE CENTRAL COMMITTEE OF THE LETTISH COMMUNIST PARTY (ROSIN).

THE CENTRAL COMMITTEE OF THE FINNISH COMMUNIST PARTY (SIROLA).

THE ACTING COMMITTEE FOR THE FEDERATION OF THE REVOLUTIONARY BALKAN SOCIAL-DEMOCRATS (RAKOWSKY).

THE SOCIALIST LABOR PARTY OF AMERICA (REINSTEIN).

## II.

### THESES OF REPORT OF COMRADE LENINE, ON BOURGEOIS AND PROLETARIAN DEMOCRACIES.

(Petrograd Pravda, Mar. 8, 1919.)

1. The growth of the revolutionary movement of the proletariat in all countries has called forth convulsive efforts of the bourgeoisie and its agents in workmen's organizations, to find ideal-political arguments in defense of the rule of the exploiters. Among these arguments stands out particularly condemnation of dictatorship and defense of democracy. The falseness and hypocrisy of such an argument, which has been repeated in thousands forms in the capitalist press and at the conference of the yellow International in February, 1919, Berne, are evident to all who have not wished to betray the fundamental principle of socialism.

2. First of all, this argument is used with certain interpretations of "democracy in general" and "dictatorship in general" without raising the point as to which class one has in mind.

Such a statement of the question, leaving out of consideration the question of class as though it were a general national matter, is direct mockery of the fundamental doctrine of socialism, namely, the doctrine of class struggle, which the socialists who have gone over to the side of the bourgeoisie recognize when they talk, but forget when they act. For in no civilized, capitalist country does there exist "democracy in general," but there exists only bourgeois democracy, and one is speaking not of "dictatorship in general" but of dictatorship of the oppressed classes, that is, of the proletariat with respect to the oppressors and exploiters, that is, the bourgeoisie, in order to overcome the resistance which the exploiters make in their struggle to preserve their rule.

3. History teaches that no oppressed class has ever come into power and can not come into power, without passing through a period of dictatorship, that is, the conquest of power and the forcible suppression of the most desperate and mad resistance, which does not hesitate to resort to any crimes, such has always been shown by the exploiters. The bourgeoisie, whose rule is now defended by the socialists who speak against "dictatorship in general" and who espouse the cause of "democracy in general," has won power in the progressive countries at the price of a series of uprisings, civil wars, forcible suppression of kings, feudal lords, and slave owners, and of their attempts at restoration. The socialists of all countries, in their books and pamphlets, in the resolutions of their congresses, in their propaganda speeches, have explained to the people thousands and millions of times the class character of these bourgeois revolutions, and of this bourgeois dictatorship. Therefore the present defense of bourgeois-democracy in the form of speeches about "democracy in general," and the present wails and shouts against the dictatorship of the proletariat in the form of wails about "dictatorship in general," are a direct mockery of socialism, and represent in fact going over to the bourgeoisie and denying the right of the proletariat to its own proletarian revolution, and a defense of bourgeois reformism, precisely at the historic moment when bourgeois reformism is collapsing the world over, and when the war has created a revolutionary situation.

4. All socialists who explain the class character of bourgeois civilization, of bourgeois democracy, of bourgeois parliamentarism, express the thought which Marx and Engels expressed with the most scientific exactness when they said that the most democratic bourgeois republic is nothing more than a machine for

the suppression of the working class by the bourgeoisie, for the suppression of the mass of toilers by a handful of capitalists. There is not a single revolutionist, not a single Marxist of all those who are now shouting against dictatorship and for democracy, who would not have sworn before the workmen that he recognizes this fundamental truth of socialism. And now, when the revolutionary proletariat begins to act and move for the destruction of this machinery of oppression, and to win the proletarian dictatorship, these traitors to socialism report the situation as though the bourgeoisie were giving the laborers pure democracy, as though the bourgeoisie were abandoning resistance and were ready to submit to the majority of the toilers, as though there were no state machinery for the suppression of labor by capital in a democratic republic.

5. The Paris Commune, which all who wish to be considered socialists celebrate in words, for they know that the working masses sympathize with the Paris Commune keenly and sincerely, showed with particular clearness the historically conditional character and the limited worth, of bourgeois parliamentarism and bourgeois democracy — institutions in a high degree progressive as compared with the Middle Ages, but inevitably requiring radical changes in the epoch of proletarian revolution. It was Marx who best showed in his analysis the exploiting character of bourgeois democracy and bourgeois parliamentarism, under which the oppressed classes received the right to decide once every few years which representatives of the propertied classes are to “represent and suppress” the people in parliament. Precisely at the present moment when the Soviet movement, covering the whole world, continues the work of the Commune before the eyes of the whole world, the traitors to socialism forget concrete experiences and the concrete lessons of the Paris Commune, repeating the old bourgeois rubbish about “democracy in general.” The Commune was not a parliamentary institution.

6. Further, the significance of the Commune lies in the fact that it attempted to break up and destroy completely the bourgeois state machinery, of officials, of judges, of military officials, of police, setting up instead self-administrating mass organizations of workmen, which did not recognize the division into legislative and executive authorities. All present-day bourgeois-democratic republics, including the German, which the traitors to socialism, scoffing at truth call proletarian, preserve this governmental apparatus. Therefore it is proven once more, and quite clearly.

that the shouts in defense of "democracy in general" are in fact defense of the bourgeoisie and its exploiting privileges.

7. "Freedom of meeting" may be taken as an example of the demands for "pure democracy." Any conscious workman who has not broken with his own class will understand immediately that it would be stupid to permit freedom of meetings to exploiters at this period, and under the present circumstances, when the exploiters are resisting their overthrow, and are fighting for their privileges. When the bourgeoisie was revolutionary, in England in 1649, and in France in 1793, it did not give "freedom of meetings" to monarchists and nobles who were calling in foreign troops and who were "meeting" to organize attempts at restoration. If the present bourgeoisie, which has been reactionary for a long time now, demands of the proletariat that the latter guarantee in advance freedom of meetings for exploiters no matter what resistance the capitalist may show to the measures of expropriation directed against them, the workmen will only laugh at the hypocrisy of the bourgeoisie.

On the other hand the workmen know very well that "freedom of meetings," even in the most democratic bourgeois republic, is an empty phrase, for the rich have all the best public and private buildings at their disposal, and also sufficient leisure time for meetings and for the protection of these meetings by the bourgeois apparatus of authority. The proletarians of the city and of the village, and the poor peasants, that is, the overwhelming majority of the population, have none of these three things. So long as the situation is such, "equality," that is, "pure democracy" is sheer fraud. In order to secure genuine equality, in order to realize in fact democracy for the toilers, one must first take away from the exploiters all public and luxurious private dwellings, one must give leisure time to the toilers, one must protect the freedom of their meetings by armed workmen, and not by noble or capitalist officers with brow-beaten soldiers.

Only after such a change can one speak of freedom of meetings and of equality, without scoffing at workmen, toilers, and the poor. And no one can bring about this change except the advance guard of the toilers, that is, the proletariat, by overthrowing the exploiters, the bourgeoisie.

8. "Freedom of press" is also one of the main arguments of "pure democracy," but again the workmen know that the socialists of all countries have asserted millions of times that this freedom is fraud so long as the best printing machinery and the

largest supplies of paper have been seized by the capitalists, and so long as the power of capital over the press continues, which power in the whole world is clearly more harsh and more cynical in proportion to the development of democratism and the republican principle, as, for example, in America. In order to secure actual equality and actual democracy for the toilers, for workmen and peasants, one must first take from capitalists the possibility of hiring writers, of buying up publishing houses, of buying up newspapers, and to this end one must overthrow the yoke of capital, overthrow the exploiters, and put down all resistance on their part. The capitalists have always called "freedom" the freedom to make money for the rich, and the freedom to die of hunger for workmen. The capitalists call "freedom" the freedom of the rich, freedom to buy up the press, freedom to use wealth, to manufacture and support so-called public opinion. The defenders of "pure democracy" again in actual fact turn out to be the defenders of the most dirty and corrupt system of the rule of the rich over the means of education of the masses. They deceive the people by attractive, fine-sounding, beautiful but absolutely false phrases, trying to dissuade the masses from the concrete historic task of freeing the press from the capitalists who have gotten control of it. Actual freedom and equality will exist only in the order established by the Communists, in which it will be impossible to become rich at the expense of another, where it will be impossible either directly or indirectly to subject the press to the power of money, where there will be no obstacle to prevent any toiler (or any large group of such) from enjoying and actually realizing the equal right to the use of public printing presses and of the public fund of paper.

9. The history of the nineteenth and twentieth centuries showed us, even before the war, what sort of a thing this famous "pure democracy" really is when one has capitalism. The Marxists have always said that where democracy is most developed and "pure," and the class struggle becomes most apparent, sharp and pitiless, there the yoke of capital and the dictatorship of the bourgeoisie also stand out in a most "pure" form.

The Dreyfus affair in republican France, the reprisals of hired battalions, armed by capitalists, against strikers in the free and democratic Republic of America, these and thousands of similar facts show the truth, which the bourgeoisie tries frantically to conceal, namely, that in the most democratic republics terror and the dictatorship of the bourgeoisie rule in actual fact, showing

themselves openly whenever the exploiters begin to feel that the power of capital is shaking.

10. The imperialistic war of 1914-1918 definitely revealed, even to the retrograde workmen, the true character of bourgeois democracy, even in the freest republics. For the enrichment of a German or an English group of millionaires or billionaires, tens of millions were killed, and in the freest republics the military dictatorship of the bourgeoisie was established. This military dictatorship continues even after the defeat of Germany in the countries of the Entente. The war has been the chief agency by which the eyes of the toilers have been opened, for it tore off the false flowers from bourgeois democracy, and showed to the whole people the enormous speculation and profiteering, in time of war and because of the war. The bourgeoisie continued this war in the name of freedom and equality, and in the name of freedom and equality war contractors have become rich to unheard-of proportions. Despite its efforts to do so the yellow Berne International will not conceal from us the exploiting character of bourgeois freedom, of bourgeois equality, of bourgeois democracy, for it has been completely exposed.

11. In the most developed capitalist country of the European continent, in Germany, the first months of complete republican freedom, secured by the overthrow of imperialist Germany, showed to the German workmen and to the whole world the actual class character of a bourgeois-democratic republic. The murder of Karl Liebknecht and Rosa Luxemburg are events of world importance, not only because the best people and the leaders of the truly democratic, communist International perished, but because for the leading European — and one can say without exaggeration for the leading world — State the essentially class character of its order was made clear. If people who have been arrested, that is, taken under protection by the State authority, can be killed by officers and capitalists with impunity under a government of patriots-socialists, then a democratic republic, in which such a thing was possible, is a dictatorship of the bourgeoisie. People who express their indignation over the murder of Karl Liebknecht and Rosa Luxemburg, but do not understand this truth reveal, then, either their stupidity or their hypocrisy. "Freedom" in one of the freest and most progressive republics of the world, in the German Republic, is freedom to kill the arrested leaders of the proletariat with impunity. And it could

not be otherwise, so long as capitalism maintains itself, for the development of democratism does not moderate but encourages class struggle, which, by reason of all the results and influences of the war and of its consequences, has been brought to the boiling point.

In the whole civilized world Bolsheviks are now being exiled, persecuted, imprisoned, as, for example, in one of the oldest bourgeois republics — Switzerland; pogroms against the Bolsheviks are taking place in America, etc. From the point of view of democracy in general or of pure democracy, it is really laughable to see how the leading civilized democratic countries, armed to the teeth, fear the presence of a few dozen people from backward, hungry, ruined Russia, which the bourgeois papers in tens of millions of copies call barbarian, criminal, etc. It is clear that an order of society which can produce such a great contradiction is in fact a dictatorship of the bourgeoisie.

12. In the presence of such a situation a dictatorship of the proletariat is not only absolutely legal, just as are the overthrow of exploiters and the suppression of their resistance, but it is also absolutely necessary for the whole mass of toilers as the only defense against the dictatorship of the bourgeoisie, which brought about the war and is preparing new wars.

That which the socialists do not understand, which constitutes their theoretic nearsightedness, their submission to bourgeois prejudices and their political treason with respect to the proletariat, is the following: In a political society wherever there is any serious sharpening of class struggle which is included in its very structure, there can be no middle course between dictatorship of the bourgeoisie or dictatorship of the proletariat. Any fanciful dreaming about some sort of third line is a reactionary lamentation of the petty bourgeois. Evidence of this is the experience of long development of bourgeois democracy and of the workmen's movement in all leading countries and in particular the experience of the last five years. Also the science of political economy speaks of this, as does the entire content of Marxism, which explains the economic inevitableness, under any economic system based on trade, of the dictatorship of the bourgeoisie, which can be changed only by a class that has developed, increased in numbers and become stronger internally by organization and also as a result of the development of capitalism, that is the class of the proletarians.

13. Another theoretic and political mistake of socialists consists in their failure to understand that the forms of democracy must necessarily change in the course of centuries, beginning from ancient times, as one ruling class is replaced by another. In the ancient republics of Greece, in the cities of the Middle Ages, in the late capitalist countries, democracy has different forms and is applied in different degrees. It would be the greatest absurdity to think that the most profound revolution in the history of humanity, where for the first time in the world, power has passed from a minority of exploiters to the majority of the exploited, would take place within the old framework of the old bourgeois, parliamentary democracy, and without the most radical ruptures and the creation of new forms of democracy, of new institutions, representing new methods of applying democracy, etc.

14. Dictatorship of the proletariat resembles dictatorship of other classes in that it was called forth by the need to suppress the forcible resistance of a class that was losing its political rulership. But that which definitely distinguishes a dictatorship of the proletariat from a dictatorship of other classes, from a dictatorship of the bourgeoisie in all the civilized capitalist countries, is that the dictatorship of the landlords and of the bourgeoisie was the forcible suppression of the resistance of the overwhelming majority of the population, namely, the toilers. On the other hand, the dictatorship of the proletariat is the forcible suppression of the resistance of the exploiters, that is, of an insignificant minority of the population — of landlords and capitalists.

It therefore follows that a dictatorship of the proletariat must necessarily carry with it not only changes in the form and institutions of democracy, speaking in general terms, but specifically such a change as would secure an extension such as has never been seen in the history of the world of the actual use of democratism by the toiling classes.

And in actual fact the form of dictatorship of the proletariat which has already been worked out in practice, that is, the Soviet authority in Russia, the Räte system in Germany, the shop stewards committees, and other similar Soviet institutions in other countries, all represent and realize for the toiling classes, that is, for the overwhelming majority of the population, this actual possibility to use democratic rights and freedoms, which possibility never existed, even approximately, in the very best and most democratic bourgeois republics.

The essence of the Soviet authority consists in this, that the permanent and sole basis of all State authority, of the entire apparatus of government, is the mass organization precisely of those classes which were oppressed by capitalism, that is, of the workmen and of the half-proletarians (peasants who did not exploit the labor of another and constantly had to sell at least a portion of their labor strength). Precisely those masses which even in the most democratic bourgeois republics had equal rights before the law but in fact were deprived of participation in the political life of the country, and by thousands of tricks and traps of the use of democratic rights and liberties, are now brought into constant and actual, and, in addition, decisive, participation in the democratic administration of the State.

15. Equality of citizenship, independent of sex, religion, race and nationality, which bourgeois democracy always and everywhere promised but never introduced, and could not introduce because of the rule of capitalism, has been realized immediately and completely by the Soviet authority or the dictatorship of the proletariat, because only the power of workmen who are not interested in the private ownership of the means of production, and in the struggle for the distribution and dividing up of these means, is in a position to give such equality.

16. The old, that is the bourgeois, democracy, and parliamentarism were so organized that the masses of the toilers were for the most part prevented from penetrating the institutions of administration. The Soviet authority, that is the dictatorship of the proletariat, on the other hand is so organized as to bring the masses of toilers into close contact with the institutions of administration. To this end the legislative and executive authorities have been brought together under the Soviet organization of the State, and territorial election districts have been replaced by economic units, such as factories and mills.

17. The army was a weapon of oppression, not only in monarchies; it remains such in all bourgeois republics, even in the most democratic. Only the Soviet authority, which is the governmental organization precisely of the classes oppressed by capitalism, is able to destroy the subjection of the army to bourgeois orders, and thus actually unify the proletariat and the army, actually bringing about the arming of the proletariat and the disarming of the bourgeoisie, without which socialism can not be triumphant.

18. The Soviet organization of the State has been so adapted as to give the leading role to the proletariat, because the latter is the class that has been most concentrated and enlightened by capitalism. The experience of all revolutions and of all movements of the oppressed classes, and the experience of the world socialist movement, teach us that only the proletariat is able to unite and carry with it the scattered and retrograde classes of the toiling and exploited population.

19. Only a Soviet organization of the State is able actually to disrupt without delay, and destroy definitely, the old apparatus of government, of the bourgeoisie, the bureaucracy and law courts. This apparatus was preserved and had to be preserved under the capitalistic order of society even in the most democratic republics, because in fact it was the main protection against the introduction of democratism for workmen and toilers. The Paris Commune made the first world-historic step along this road; the Soviet authority, the second.

20. The destruction of State authority is the aim which all socialists have set for themselves, Marx included and at the head; without the realization of this aim true democratism, that is, equality and liberty, cannot be realized. This aim can be realized in actual fact only by a Soviet or proletarian democracy, for by bringing into constant and actual participation in the administration of the State the mass organizations of the toilers, it begins immediately to prepare for the complete decay of any State.

21. The complete bankruptcy of the socialists who gathered in Berne and their complete failure to understand the new, that is, the proletarian democracy, are seen especially in the following: On February 10, 1919, Branting opened in Berne an international conference of the yellow International. On February 11, 1919, in Berlin, in the newspaper of the supporters of this conference, *Die Fröhe*, was published an appeal of the party of "The Independents" to the proletariat. In this appeal the bourgeois character of the government of Scheidemann was acknowledged, and this government was reproached for wishing to abolish the Soviets, which were called the "Träger und Schützer der Revolution," the standard bearers of the revolution; and it was proposed that the Soviets be legalized, given governmental functions and the right to suspend the decisions of the Constituent Assembly through a referendum based on universal suffrage. This proposal represents the complete bankruptcy of the theorists who have defined

democracy without understanding its bourgeois character. This ludicrous attempt to unite the system of Soviets, that is, the dictatorship of the proletariat, with the Constituent Assembly, that is, the dictatorship of the bourgeoisie, reveals definitively the deformed mentality of the yellow Socialists and Social-Democrats, their political reactionary tendencies similar to those of the petty bourgeoisie, and their cowardly concessions to the irresistible, growing strength of the new proletarian democracy.

22. In condemning Bolshevism, the majority of the yellow International of Berne, which did not have the courage formally to vote a resolution to this effect because of their fear of the workmen masses, acted from a class point of view, for this majority is in complete solidarity with the Russian Mensheviks and Socialist-Revolutionaries, and with the Scheidemanns in Germany. The Russian Mensheviks and Socialist-Revolutionaries, complaining that they are prosecuted by the Bolsheviks, try to conceal the fact that they are being prosecuted because of participation in the civil war on the side of the bourgeoisie against the proletariat. In the same manner the Scheidemanns and their parties have already shown in Germany that they also are participating in the civil war on the side of the bourgeoisie against the workmen. It is therefore quite natural that the majority of those who took part in the Berne yellow International came out in condemnation of the Bolsheviks. But this was not defense of "pure democracy," but self-defense of people who know and feel that in the civil war they stand on the side of the bourgeoisie against the proletariat. Therefore, from the class point of view one must recognize the correctness of the decision of the majority of the yellow International. The proletariat, not fearing the truth, should look the truth straight in the face and draw the logical political conclusions.

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### III. ATTITUDE OF PROLETARIAT TO MIDDLE PEASANTRY.

LENIN'S REPORT TO EIGHTH CONGRESS OF RUSSIAN COMMUNIST PARTY (EXTRACTS).

[Petrograd Pravda, Apr. 5, 1919.]

It is quite clear that the following question is fundamental, very complicated, but no less vital: How to define exactly the attitude

of the proletariat to the middle peasantry. Comrades, for Marxists this question does not present difficulties from the theoretical point of view, which the overwhelming majority of workmen have now acquired. I recall for example that in Kautsky's book on the agrarian question written when Kautsky still correctly presented the teachings of Marx and was recognized as an unquestioned authority in this field, in this book on the agrarian question he speaks of the passing from capitalism to socialism:

"The task of the Socialist party is the neutralization of the peasantry; that is, to handle the situation so that the peasantry remains neutral in the struggle between the proletariat and the bourgeoisie, that the peasantry does not give any active assistance to the bourgeoisie against us." During the long period of the bourgeois rule the peasant has always supported the bourgeois authority and was on the side of the bourgeoisie. This is understandable if one takes into account the economic strength of the bourgeoisie and the political methods of its rule. We can not expect the middle peasant to come over to our side immediately. But if we direct our policy correctly, then after a certain period hesitation will cease and the peasant may come over to our side. Engels, who, together with Marx, laid the foundations of scientific **Marxism**, that is, of the doctrine which our party follows constantly and particularly in time of revolution — Engels already established the fact that the peasantry is differentiated with respect to their land holdings into small, middle, and large; and this differentiation for the overwhelming majority of the European countries exists to-day. Engels said: "Perhaps it will not be necessary to suppress by force even the large peasantry in all places." And no sensible socialist ever thought that we might ever apply violence to the middle peasantry (the smaller peasantry is our friend). This is what Engels said in 1894, a year before his death, when the agrarian question was the burning question of the day. This point of view shows us that truth which is sometimes forgotten, though with which we have always theoretically been in accord. With respect to landlords and capitalists our task is complete expropriation. But we do not permit any violence with respect to the middle peasant. Even with respect to the rich peasant we do not speak with the same determination as with regard to the bourgeoisie: "Absolute expropriation of the rich peasantry." In our program this difference is emphasized. We say: "The suppression of the resistance of the peasantry,

the suppression of its counter-revolutionary tendencies." This is not complete expropriation.

The fundamental difference in our attitude toward the bourgeoisie and toward the middle peasantry is complete expropriation of the bourgeoisie, but union with the middle peasantry that does not exploit others. This fundamental line in theory is recognized by all. In practice this line is not always observed strictly, and local workers have not learned to observe it at all. When the proletariat overthrew the bourgeois authority and established its own, and set about to create a new society, the question of the middle peasantry came into the foreground. Not a single socialist in the world has denied the fact that the establishment of communism will proceed differently in those countries where there is large land tenure. This is the most elementary of truths and from this truth it follows that as we approach the tasks of construction our main attention should be concentrated to a certain extent precisely on the middle peasantry. Much will depend on how we have defined our attitude toward the middle peasantry. Theoretically, this question has been decided, but we know from our own experience the difference between the theoretical decision of a question and the practical carrying out of the decision. We have come to that difference which was so characteristic of the old French revolution when the French Convention made wide plans but did not have the proper support to carry them out and did not even know on what class it should rely in order to put through this or that measure. We find ourselves in a much more favorable condition. Thanks to a whole century of development we know on what class we rely and we know also that this class has had a quite inadequate amount of practical experience. The fundamental thing for the working class, and for the Socialist party, was clear — to overthrow the authority of the bourgeoisie and turn over authority to the workmen.

But how to accomplish this? All remember with what difficulty, and after how many months we passed from workmen's control to workmen's administration of industry, and that was development within our class, within the proletarian class, with which we had always had relations. But now we must define our attitude toward a new class, toward a class which the city workmen do not know. We must define our attitude toward a class which does not have a definite steadfast position. The proletariat as a mass is for Socialism; the bourgeoisie is against

socialism; it is easy to define the relations between two such classes. But when we come to such a group as the middle peasantry, then it appears that this is such a kind of class that it hesitates. The middle peasant is part property owner and part toiler. He does not exploit other representatives of the toilers. For decades he has had to struggle hard to maintain his position and he has felt the exploitation of the landlord-capitalists.. But at the same time he is a property owner.

Therefore our attitude toward this class presents enormous difficulties. On the basis of our experience of more than a year and of proletariat work in the village for more than a year and in view of the fact that there has already taken place a class differentiation in the village, we must be most careful not to be hasty, not to theorize without understanding, not to consider ready what has not been worked out. In the resolution which the committee proposes to you, prepared by the agrarian section, which one of the next speakers will read to you, you will find many warnings on this point. From the economic point of view it is clear that we must go to the assistance of the middle peasant. On this point theoretically there is no doubt. But with our level of culture, with our lack of cultural and technical forces which we could offer to the village, and with that helplessness with which we often go to the villages, comrades often apply compulsion, which spoils the whole cause. Only yesterday one comrade gave me a small pamphlet entitled "Instructions for party activity in the Province of Nizhnenovgorod," a publication of the Nizhnenovgorod Committee of the Russian Communist Party (Bolsheviks), and in this pamphlet I read, for example, on page 41: "The decree on the extraordinary revolutionary tax should fall with its whole weight on the shoulders of the village rich peasant speculators, and in general on the middle elements of the peasantry." Now here one may see that people have indeed "understood," or is this a misprint? But it is not admissible for such misprints to appear. Or is this the result of hurried, hasty work, which shows how dangerous haste is in a matter like this? Or have we here simply a failure to understand, though this is the very worst supposition which I really do not wish to make with reference to our comrades at Nizhnenovgorod? It is quite possible that this is simply an oversight. Such instances occur in practice, as one of the comrades in the commission has related. The peasants surrounded him and each peasant asked:

"Please define, am I a middle peasant or not? I have two horses and one cow. I have two cows and one horse," etc. And so this agitator who was traveling over entire districts had to use a kind of thermometer in order to take each peasant and tell him whether he was a middle peasant or not. But to do this he had to know the whole history and economic life of this particular peasant and his relations to lower and higher groups, and of course we can not know this with exactness.

Here one must have practical experience and knowledge of local conditions, and we have not these things as yet. We are not at all ashamed to admit this; we must admit this openly. We have never been utopists and have never imagined that we could build up the communistic society with the pure hands of pure communists who would be born and educated in a pure communistic society. Such would be children's fables. We must build communism on the ruins of capitalism, and only that class which has been tempered in the struggle against capitalism can do this. You know very well that the proletariat is not without the faults and weaknesses of the capitalistic society. It struggles for socialism, and at the same time against its own defects. The best and most progressive portion of the proletariat which has been carrying on a desperate struggle in the cities for decades was able to imitate in the course of this struggle all the culture of city life, and to a certain extent did acquire it. You know that the village even in the most progressive countries was condemned to ignorance. Of course the cultural level of the village will be raised by us, but that is a matter of years and years. This is what our comrades everywhere forget, and this is what every word that comes to us from the villages portrays with particular clearness, when the word comes not from local intellectuals and local officials but from people who are watching the work in the village from a practical point of view. All these voices are of special value to us in the agrarian section. These voices will be of particular value at the present moment. I am convinced of this, and for this party congress inasmuch as they are taken not from books, not from decrees, but from life itself.

This is what impels us to work in this spirit, in order to make more clear our relations to the middle peasantry. This is very difficult because in life we do not have this clarity. This question not only is not solved but it can not be solved if one wishes to solve it at a stroke and immediately. There are people who

say: "It was not necessary to write such a quantity of decrees," and they criticise the Soviet government because it gave attention to the writing of decrees without knowing how to carry them out in actual life. These people do not see how they are really galloping over to the White-Guardists. If we had expected that the whole life of the village could be changed by the writing of thousands of decrees we certainly would have been complete idiots; but if we had failed to indicate the road in decrees we would have been traitors to socialism. These decrees which in actual practice could not be carried out immediately and fully have played an enormous role for propaganda. If at first we carried on a propaganda by general truths, now we are carrying on a propaganda by actual work. This also is preaching, but it is preaching by acts, and not in the sense of independent acts of certain upstarts at whom we used to laugh in the period of anarchists and the old socialism. Our decree is an appeal, but not an appeal in the former spirit: "Workmen, rise, overthrow the bourgeoisie." No, it is an appeal to the masses, an appeal for practical action. The decrees are instructions calling for mass action of a practical character. This is what is important. It does not matter that in these decrees there is much that is worth nothing, much that will not be realized. The aim of a decree is to teach practical methods, to those hundreds, thousands and millions of people who listen to the voice of the Soviet authority. This is the test of practical action in the field of socialist construction in the villages. If we shall take this view, then we shall derive very much from the total sum of our laws, decrees and ordinances. We shall not look upon them as absolute forms which must be carried out at any cost, immediately and at one stroke.

(At another session of the congress Lenine spoke on the same subject. From Petrograd Pravda, Apr. 9, 1919.)

We have solved so far only the first fundamental task of the socialist revolution, the task of victory over the bourgeoisie. We have solved this task in a fundamental manner although now begins a dangerously difficult half year, during which the imperialists of the whole world are making the last efforts to suppress us. We can say now without exaggeration that they themselves have understood that after this next half year their cause will be absolutely suppressed. Either they must now take advantage of our exhaustion and conquer one country, namely Russia, or we

will be the victors, and not only with reference to our own country. During this half year, when the food supply and transportation crises have become more acute and the imperialistic powers are trying to attack on several fronts, our position is extremely difficult, but this is the last difficult half year. One must as before concentrate all efforts on the struggle with the foreign enemy who is attacking us.

When we speak of the tasks in connection with work in the villages, in spite of all difficulties, in spite of the fact that our knowledge has been directed to the immediate suppression of exploiters, we must nevertheless remember and not forget, that in the villages with relation to the middle peasantry the task is of a different nature. All conscious workmen of Petrograd, Ivanovo-Voznesensk and Moscow, who have been in the villages, tell us of instances of many misunderstandings, of misunderstandings that could not be solved it seemed, and of conflicts of the most serious nature, all of which were, however, solved by sensible workmen who did not speak according to the book but in language which the people could understand, and not like an officer allowing himself to issue orders though unacquainted with village life, but like a comrade explaining the situation and appealing to their feelings as toilers. And by such explanation one attained what could not be attained by thousands who conducted themselves like commanders or superiors.

The resolution which we now present for your attention is drawn up in this spirit. I have tried in this report to emphasize the main principles behind this resolution, and its general political significance. I have tried to show, and I trust I have succeeded, that from the point of view of the interests of the revolution as a whole, we have not made any changes. We have not altered our line of action. The White-Guardists and their assistants shout and will continue to shout that we have changed. Let them shout. That does not disturb us. We are developing our aims in an absolutely logical manner. From the task of suppressing the bourgeoisie we must now transfer our attention to the task of building up the life of the middle peasantry. We must live with the middle peasantry in peace. The middle peasantry in a communistic society will be on our side only if we lighten and improve its economic conditions. If we to-morrow could furnish a hundred thousand first-class tractors supplied with

gasoline and machinist (you know of course that for the moment this is dreaming) then the middle peasant would say: "I am for the Commune." But in order to do this we must first defeat the international bourgeoisie, we must force them to give us these tractors, or we must increase our own production so that we can ourselves produce them. Only thus is the question stated correctly.

The peasant needs the industries of the cities and cannot live without them and the industries are in our hands. If we approach the situation correctly then the peasant will thank us because we will bring him the products from the cities, implements and culture. It will not be exploiters who will bring him these things, not landlords, but his own comrades, workers whom he values very deeply. The middle peasant is very practical and values only actual assistance, quite carelessly thrusting aside all commands and instructions from above.

First help him and then you will secure his confidence. If this matter is handled correctly, if each step, taken by our group in the village, in the canton, in the food-supply detachment, or in any organization, is carefully made, is carefully verified from this point of view, then we shall win the confidence of the peasant, and only then shall we be able to move forward. Now we must give him assistance. We must give him advice and this must not be the order of a commanding officer, but the advice of a comrade. The peasant then will be absolutely for us.

And this is what our resolution contains, and this is what it seems to me should be the decision of the congress. If we accept this resolution and if it defines all the activity of our party organizations, then we shall solve the second great task that is before us. We learned how to overthrow the bourgeoisie and suppress it and we are very proud of what we have done. We have not yet learned how to regulate our relations with the millions of middle peasants and how to win their confidence. We must say this frankly; but we have understood the task and we have undertaken it and we say to ourselves with full hope, complete knowledge and entire decision: We shall solve this task and then Socialism will be absolute, invincible.

## IV.

SPEECH BY KALININ, PRESIDENT OF ALL-RUSSIAN  
CENTRAL EXECUTIVE COMMITTEE, ON THE  
MIDDLE PEASANTRY.

[Severnaya Kommuna, Apr. 10, 1919.]

Moscow, April 9 (Rosta).— At a plenum meeting of the Moscow Soviet of Workmen's and Red Army Deputies, the president of the Central Executive Committee, Comrade Kalinin, spoke:

"My election is the symbol of the union of the proletariat and the peasantry. At the present moment when all counter-revolutionary forces are pressing in on us, such a union is particularly valuable. The peasantry was always our natural ally, but in recent times one has heard notes of doubt among the peasants; parties hostile to us are trying to drive a wedge between us and the peasantry. We must convince the middle peasants that the working class, having in its hands the factories, has not attacked and will not attack the small, individual farms of the peasant. This can be done all the more easily because neither the old nor the new program of communists says that we will forcibly centralize the peasant lands and drive them into communes, etc. Quite to the contrary, we say definitely that we will make every effort to readjust and raise the level of the peasant economic enterprises, helping both technically and in other ways, and I shall adhere to this policy in my new post. Here is the policy we shall follow:

"We shall point out to province, district, and other executive committees that they should make every effort in the course of the collecting of the revolutionary tax, to the end that it should not be a heavy burden on the middle peasant; that they should make self-administration less costly and reduce bureaucratic routine. We shall make every effort so that the local executive committees shall not put obstacles in the way of exchange of articles of agriculture and of home consumption between cantons and peasants—that is, the purchase of farm and household utensils that are sold at fairs. We shall try to eliminate all friction and misunderstandings between provinces and cantons. We shall appeal to the local executive committees not only not to interfere

with, but on the contrary to support, separate peasant economic enterprises which because of their special character have a special value. The mole of history is working well for us; the hour of world revolution is near, though we must not close our eyes to the fact that at the present moment it is all the more difficult for us to struggle with counter-revolution because of the disorganization of our economic life. Frequently they prophesied our failure, but we still hold on and we shall find new sources of strength and support. Further, each one of us must answer the question as to how to adjust production, carry out our enormous tasks, and use our great natural resources. In this field the unions of Petersburg and Moscow are doing very much, because they are the organizing centers from whose examples the provinces will learn. Much has been done in preparing products, but much still has to be done. We in Petersburg fed ourselves for three months, from the end of June to the beginning of September, on products from our Petersburg gardens."

Comrade Kalinin taking this matter of the gardens as an example, explains how one must approach the problem in a practical manner:

"We must define the relations between the Supreme Council of National Economy and local economic enterprises, and I am sure the Moscow Soviet will do everything in its power for the preparation of food products. The stronger we are the greater are the chances of a Western European revolution.

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## V.

### TELEPHONOGRAM OF PRESIDENT OF THE SOVIET OF DEFENSE, COMRADE LENIN, TO THE ALL-RUSSIAN EXTRAORDINARY COMMISSION.

[IZVESTIA, Apr. 2, 1919.]

According to a communication from the All-Russian Extraordinary Commission, word has been received from Petrograd that agents of Kolchak, Denikin, and the Allies tried to blow up the

water-supply station in Petrograd. In the cellar were found explosives and an infernal machine; when the latter was taken it exploded prematurely, and the commander of the detachment was killed and four members of the Red Army were wounded.

At other points attempts are being made to blow up bridges and stop railway transportation.

Attempts are being made to blow up railway roadbeds in order to leave Moscow and Petrograd without food supply.

Socialist-Revolutionaries and Mensheviks take an active part in appeals for strikes for the overthrow of the Soviet authority.

In view of the information received, the Soviet of Defense orders that the most urgent measures be taken to suppress all attempts to cause explosions, to destroy railways, and all appeals for strikes.

The Soviet of Defense calls on all workers in the Extraordinary Commission to be especially watchful, and to report to the Soviet of Defense all measures adopted.

(Signed) V. ULIANOV (LENIN),  
*President of Soviet of Defense.*

## VI.

### EXTRAORDINARY COMMISSION — ACTIVITIES.

[From column "Latest news" in Izvestia, Sept. 5, 1918.]

#### ARREST OF RIGHT SOCIALIST-REVOLUTIONARIES.

At the present moment the ward extraordinary commissioners are making mass arrests of Right Socialist-Revolutionaries, since it has become clear that this party is responsible for the recent acts of terrorism (attempt on life of Comrade Lenin and the murder of Uritsky), which were carried out according to a definitely elaborated program.

#### ARREST OF A PRIEST.

For an anti-Soviet sermon preached from the church pulpit, the Priest Molot has been arrested and turned over to the counter-revolutionary section of the All-Russian Extraordinary Commission.

### STRUGGLE AGAINST COUNTER-REVOLUTIONARIES.

We have received the following telegram from the president of the Front Extraordinary Commission, Comrade Latsis: "The Extraordinary Commission of the front had shot in the district of Ardatov, for anti-Soviet agitation, 4 peasants, and sent to a concentration camp 32 officers.

"At Arzamas were shot three champions of the Tsarist régime and one peasant-exploiter, and 14 officers were sent to the concentration camp for anti-Soviet agitation."

### HOUSE COMMITTEE FINED.

For failure to execute the orders of the dwelling section of the All-Russian Extraordinary Commission, the house committee at 42 Pokrovka, has been fined 20,000 rubles.

This fine is a punishment for failure to remove from the house register the name of the well-known Cadet Astrov, who disappeared three months ago.

All the movable property of Astrov has been confiscated.

### THE ARREST OF SPECULATORS.

On September 3 members of the Section to Combat Speculation of the All-Russian Extraordinary Commission arrested Citizen Pitkevich, who was trying to buy 125 food cards, at 20 rubles each. A search was made in the apartment of Pitkevich, which revealed a store of such cards bearing official stamps.

This section also arrested a certain Bosh, who was speculating in cocaine brought from Pskov.

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## VII.

### DESCRIPTION OF EXTRAORDINARY COMMISSION.

[Severnaya Kommuna, Oct. 17, 1918.]

Comrade Morosov has pointed out the importance of the Extraordinary Commission, an organ of the class to conduct civil war, established in view of necessity, and before all in order to beat down the strikes of the civil officials. The first manifestation of the committee has been the liquidation of the union of the "salvation of the revolution." Then the commission annihilated

the union of the civil officials who subsidized the committees of the strikes. The newspaper, *Den*, had special funds for this purpose. The commission has also abolished a staff office which was recruiting men for the army of the Don. Then came the turn of the "Union of the Constituent Assembly," which organized universities for soldiers, which were really centers of preparation for civil war. A large quantity of arms was found in these universities. The "Military League" was then formed, where men for Kaledin were recruited and the assassination of the commissaries of the people were prepared. The commission has overthrown this league and also a monarchistic league called "The White Cross."

The commission has also fought against speculation; fines and requisitions have been increased.

At Moscow, the commission has liquidated the "Union of Proprietors," the plot of Burri, an American, who has been getting ready to monopolize the Soviets, and lastly the affair of Lockhart. The commission has registered 2,559 contra-revolutionary affairs and 5,000 arrests have been made.

The comrade Bokki declares that since the departure of the commission from Moscow 5,423 affairs have been registered, 2,817 of which have been terminated. A number of the guilty have already been shot. There is a lack of judges. Each judge has not less than 100 cases. The total number of people arrested is 6,229. The total number of people shot is 800.

From August 15 to October 15, 1918, 1,101 cases have been examined, 564 of which have been classified. The most important are those of the Chamber of Public Vengeance, the Union for the Liberation of the Country," and the recruiting of the White Guard. The case of the assassination of Uritsky and the English plot have not yet been terminated. Among the pending cases are pointed out the transport of weapons to the German embassy under the mask of diplomatic documents. One of the cases fell, and Mausers fell out of it. Nine cases of the same sort have been confiscated.

The cases of speculation have led to a confiscation of 20,000,000 rubles.

At Kronstadt there have been 1,300 hostages. Only 183 people are left; 500 have been shot. Four hundred and eighty-nine affairs of counter-revolutionists have been examined and 236 concerning speculations.

## VIII.

## PETERS' PROCLAMATION "TO CITIZENS OF PETROGRAD AND ENVIRONS."

[Izvestia of Petrograd Soviet, July 4, 1919.]

Mass searches recently conducted with the direct participation of the Petrograd proletariat, and also the voluntary giving up of arms in accordance with the order of June 24, 1919, No. 961, have shown that a large quantity of various kinds of arms and military equipment have been illegally kept by the population, mainly by the more prosperous strata of the population.

However, the result of the mass and individual searches that still continue, and the turning in of the arms show that not all of the arms have been given up.

**Workmen and workwomen of Petrograd:** You are standing firm in defense of the revolution, and of its red capital. See to it that not a single rifle, not a single cartridge, remain in the hands of the bourgeoisie. Search the cellars, attics, sheds, living quarters, and all places, and do not allow them to bury arms in the ground.

If you discover the concealment of arms, revolvers, cartridges, bombs — anything that would be of use to the enemies in their attack on us, report the fact immediately to the chief of internal defense. Those guilty of concealing arms will suffer the most severe penalty.

See to it that arms and other military supplies do not lie around without proper guard and careful inventory, because of the carelessness of some one.

All persons and institutions in charge of the registering of various stores must carefully examine the latter, and communicate immediately if they find among them arms or objects of military equipment. They will be turned over to the Revolutionary court if they conceal these, or overlook them.

House committees are responsible as formerly for arms found in their houses, and will be subjected to the most severe punishment for failure to carry out this order. Searches will continue until the rear of our Red Army and of the Petrograd proletariat has been absolutely made safe.

We are firmly resolved to carry out to the end the business we have started.

At the same time in order to meet the weak-spirited and those who do not read orders carefully, I now for the last time fix the time limit for the voluntary giving up of arms. Whoever will voluntarily give up arms between the day of publication of this order and Tuesday the 8th of July, is guaranteed, as on previous occasions, complete security. There will be no quarter for those who do not take advantage of this last postponement.

Failure to carry out this order will this time be regarded by me as a deliberate counter-revolutionary ignoring of the ordinances of the Soviet authority, and will call forth a corresponding attitude on my part.

The workmen of Petrograd, finally, will be able by entering the revolutionary reserve regiments of the defense, to arm themselves for self-defense against the White-Guard bands, and for the struggle against the latter in all directions. PETERS,

*Chief of the Internal Defense of Petrograd.*

## IX.

### ARTICLE ON FOOD CARDS BY CLASSES (EXTRACTS).

[Izvestia, Sept. 11, 1918.]

The card system has been in existence almost from the very first days of the war, but a class card system is being introduced for the first time. As an experiment, this distribution by classes of food supplies was tried first in the Petrograd commune. This was only an experiment, a beginning, but now such a class distribution must be introduced as a general system. "What is this class card system?" The title speaks for itself. It is the distribution of all foodstuffs according to classes of which our present society is composed. \* \* \*

According to the project prepared and already adopted and confirmed, the whole population is divided into four groups and the receiving of its class share of the articles of food is expressed for each group by the following percentages:

Group I.....	200
Group II.....	150
Group III.....	100
Group IV.....	50

Let us take the third group that receives 100 per cent as the basis for reckoning. In this group are included persons occupied in light physical labor and also persons doing mental work whose work takes place in definitely normal conditions with a normal expenditure of physical and muscular energy. \* \* \*

The fourth group is to receive only 50 per cent.

It is no secret to any one that the persons of the fourth group are for the most part parasitic elements who do not expend any physical energy and do not do any work useful to the community.

The introduction of such a class system of feeding is dictated by sheer necessity resulting from the absence of reserves of supplies and the difficulties in organizing the distribution of supplies. But I believe that such a system of distribution should be the permanent and general principle in our socialistic country, which is gradually gaining strength.

In conclusion I believe that it would be very desirable if comrades among the workmen would comment on this article of mine, and would try to send in their remarks and express their view with regard to this dividing up of the population into groups, and the class food-card system in general, although the question of introducing the latter has already been decided and the first steps will be taken within the next days.

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## X.

### FOOD SUPPLY BY CLASSES.

[Severnaya Kommuna, Oct. 20, 1918.]

Scholars and professors have been transferred from the second to the first alimentary category, and have the right to keep their laboratories and studies, as well as the living rooms which are allowed them under the decree concerning apartments. The actors of the State theaters are also classed in the first category. During the days of the celebration of the anniversary of the revolution the rations will be considerably increased; first category receives meat and 1½ pounds of bread; even the fourth will receive one-half pound of bread and 3 pounds of potatoes.

## XI.

BULLETIN FROM THE COMMISSARIAT OF FOOD  
SUPPLIES.

[Petrograd Pravda, Apr. 9, 1919.]

The commissariat of supplies informs the population that in connection with the coming world-proletarian holiday of May 1 there will be issued: One-half pound of wheat bread instead of rye to the first and second categories; one-eighth pound to the third category.

One-half pound of wheat bread will be issued on labor cards, irrespective of the amount of work done, on the April 30 coupon, together with the bread that would be issued for work done April 30.

In addition, on the account of the first half of the month of May, the following products will be issued:

To first and second categories:

Sugar, 1 pound.  
Fats,  $\frac{1}{2}$  pound.  
Fish, 1 pound.  
Herring, 2 pounds.  
Salt, 1 pound.

To third category:

Sugar,  $\frac{1}{2}$  pound.  
Fish,  $\frac{1}{2}$  pound.  
Herring, 1 pound.  
Salt,  $\frac{1}{2}$  pound.

Children, pupils in schools, hospitals, asylums, and similar institutions will receive also white bread instead of black for May 1, according to the norms established.

## XII.

REPORT OF AMERICAN REPRESENTATIVE, FROM  
FINLAND, JUNE 25, 1919.

The fall of Bolshevism, which seemed inevitable even two months ago, has created the wildest terrorism. People are executed without trial in masses on mere suspicion of sympathy with the Soviet's enemies. Agitation is growing abroad, created chiefly by Russian Jews and others who are interested in a prolongation of the Bolshevik regime and against the aims of Generals Kolchak, Yudenich, and Denikin, who are denounced as representing the supporters of tsarism. The attempt is made also

to convince foreigners that improvements are going on in Soviet Russia, with an ardor which would seem to indicate the hopelessness of the situation.

Some American journalists, received and well treated by the Bolsheviks, also have reported favorably. The Russians who are opposed to the Soviet Government naturally believe these to be bribed. I think this unlikely. I have seen a number of them and it is my belief that their conclusions are due rather to prepossessed ideas and to ignorance of real conditions and unfamiliarity with the language.

It is my own strong conviction that even the dark elements are by now disillusioned. The bulk of the workmen and the peasants, to whom so much has been promised, are disgusted. The increasing support which the Bolsheviks found in 1917 has gradually disappeared. Reliable opinion counts not more than 160,000 Communists by conviction, and these are mostly young workmen.

Terror and necessity compel work for the Soviet Government, but this work is much encumbered by theory, inexperience, and corruption. The continued existence of Soviet Russia is largely due to enormous stocks accumulated during the war. Even now colossal quantities of cotton goods exist, which they do not know how to distribute. This inability to produce any practical achievements has resulted, politically, in an outspoken change. The idea of a great Russian Republic has faded and the general wish is rather for a strong constitutional monarchy.

The peasants I have recently seen deny emphatically the existence of support (for the Bolsheviks) in the villages, stating that the few Communists to be found in some villages are known to be loafers.

It is my opinion that not 1 per cent of Soviet Russia's population will be against intervention from whichever side it may come; Kolchak or any other power will be welcomed. There will be a slaughtering of Bolsheviks as soon as the deliverers are near the centers and the Red Terror ceases to be feared, but terror, hunger, and disease have temporarily created apathy.

Finland loathes Bolshevism, fears a Tsar Government, but wishes to be on good terms with a new strong Russia. I believe the same applies to the Baltic Provinces.

As to the Tartars of Siberia and Kazan I have not the slightest doubt that these (about 16,000,000 Mohammedans) will as a whole side with Kolchak against the Bolsheviks. This is confirmed by their representative, Mr. S. Maksoudov, now in Paris,

who personally gave me his report of March 25, which was cabled in full to Paris.

Many Russian Jews have by their activity with the Bolsheviks strongly compromised that section of the population and "pogroms" of great magnitude, I fear, are to be anticipated.

The strength of the Bolsheviks lies in their organization. Terror, combined with most elaborate espionage at home and propaganda in and behind the ranks of the enemy, make them still a formidable force.

### XIII.

#### REPORT OF AMERICAN REPRESENTATIVE OF STATEMENTS FROM A PERSONAL FRIEND WHO HAD ESCAPED FROM SOVIET RUSSIA, OF JULY 2, 1919.

Terror is daily increasing and people are shot not only for agitation against the Soviet Government or for any other accusation; the nonbelonging to the Soviet service or relatives being abroad or the possibility of intending to join a new government are sufficient reasons for execution. For instance: Bakharev was shot because he was not serving the Soviet and his wife had gone abroad. He was a young officer who lived in Chernigov with the parents of his wife and his mother went to Moscow. When in August, 1918, all officers had to be registered, he could not appear, living in the Ukraine. His old mother was then arrested in Moscow. Hearing this he managed to go to Moscow and see the commandant. He was immediately arrested and his mother remained one and one-half months longer in prison. The judgment against Bakharev was the following: "Is not in Soviet service, lived in the Ukraine, appeared only after arrest of his mother. To be considered a White-Guardist and to be shot." The cook serving at the Extraordinary Commission, where Bakharev and many thousands have been shot, related afterwards that serious differences arose between the so-called "commissaries of death" as to whom Bakharev's clothes should belong. Bakharev was very well dressed, and it is usual that what the delinquent wears belongs to the commissary of death carrying out the sentence. When Bakharev was brought to the room of "souls" where prisoners were taken for final questions and for taking

away of any valuables, the commissaries of death, noticing his fine clothes, began to quarrel as to who should execute. After long disputes and quarreling they decided to toss; the winner then hastened to carry out the sentence on this unfortunate Bakharev.

The officer Kamensky was executed on the supposition of the commissary that he was expecting a change of Government to which he might be useful; and people dangerous to the Soviet power must be shot.

Beginning from the middle of April terror increased, people were shot on suspicion of being in sympathy with Kolchak or the Allies. After the decree of Lenin concerning the cleaning out of all counter-revolutionists in the rear, on account of the danger from Kolchak and others, besides executions, many have been taken as hostages. The names of only a small percentage of those shot are published. When I was two and one-half months in prison at the Extraordinary Commission I had occasion to notice that of 36 shot 7 names were published, and another time of 58 persons 11; on other instances (executions are going on nearly every night) either the names are not published at all or only very few, and the names of thieves and other criminals are always mentioned.

Many people were shot by mistake, especially in August and September, 1918. Officer A. Leite, who was in prison from July, 1918, till February, 1919, told me that from the day of the attempt on Lenin's life 80 to 100 persons were shot daily, of which on an average 60 per cent were officers and former policemen, 20 per cent bourgeois, and 20 per cent workmen belonging to the Right Socialist-Revolutionary or to the Menshevist Party. Mistakes were made due to the arrests of persons having the same name, not much attention being given to the first names. Often men were shot at night and called up for judgment or release the following day. For belonging to the Socialist-Revolutionaries the president of the Trade Union of Workmen in Smolensk was arrested and shot. But his trial was the next morning. When called up the chief jailer declared that prisoner was sent to the "staff of souls."

In the house where I lived a man called Lvov died of smallpox. His corpse was sent to the cemetery and remained there with several hundred others, unburied for three weeks, although the widow asked several times to be allowed to inter her husband. It was refused and all were buried in one big grave.

A workman, Polianker, receiving 800 rubles a month, was not able to supply his family with sufficient food. His wife was unable to work and had to look after the children. Friends helped with 200 to 500 rubles a month; still they remained hungry. He could not stand to see their sufferings and killed them all and himself.

The administrator of my houses received from the Soviet Government 400 rubles a month; I gave him 300 and besides he earned another 700. Still he could not find sufficient food for his only daughter, and committed suicide.

A wealthy house owner, Mrs. I. Shaposnikov, committed suicide, leaving a note saying: "Hunger and cold forced me to do this."

The president of the All-Russian Extraordinary Commission, Dzerzhinsky, appeared last New Year's Eve in our prison and commenced asking all the reason of their imprisonment. Most declared that they were absolutely ignorant why they were arrested. I was next to Col. Fraise. When Dzerzhinsky asked him, and the colonel knew only English and French, whilst Dzerzhinsky only Russian and German, I had to translate in French. The colonel's exhausted condition induced me to transmit only part of Dzerzhinsky's talk; I did not wish to increase his sufferings. No wonder he was exhausted. Long imprisonment and bad food were sufficient reasons. Our rations were: Morning, one-eighth to one-fourth pound of bread and one teaspoonful of sugar; at noon: Very small amount of bad fish. Nothing more, only after the second half of December we received at 4 o'clock a second portion of fish. That is how prisoners are kept for several months in the All-Russian Extraordinary Commission. In the regular prison food was slightly better. We received 1 pound of bread and twice, at 12 o'clock and 4 o'clock, the same fish and some sort of porridge, consisting chiefly of water. Still all prisoners want to be transferred to the regular prison in order not to hear the nightly shooting at the Extraordinary Commission.

Espionage and provocation are developed to highest perfection. Agents of the Extraordinary Commission are everywhere—in all departments, railroad carriages, streets and private houses. A. Hoelzke, with family and several friends, was arrested and remained one and one-half months in prison for expressing the opinion that the Bolsheviks would scarcely be able to collect the extraordinary taxes, as they were too high. I. Lopatin was

arrested because he said in his home that he did not believe the Allies would recognize the Bolsheviks. His servant denounced him and he sat two months.

N. Potelakhov, a well-known cotton dealer from Turkestan, was arrested in April, 1918. President Dzerzhinsky declared he would remain in prison till Orenburg was taken by the Red Army, then he would be sent to Turkestan to buy cotton. When the cotton was received he was to get a commission of 2 per cent and to be free. After an imprisonment of six months, in October he was tried for the first time and asked why he was in prison. When he assured his ignorance, the commissary said he would look into the matter. In December he was tried again and as there was no charge against him the judge explained that prison was now the place for rich people. When he was arrested it was found that he possessed 68,000,000 rubles, which were confiscated, and the informant received the usual 20 per cent reward. In February, he was sent to Turkestan to buy cotton to the amount of 2,000,000,000 rubles.

Even Bolsheviks are alarmed at the misdeeds, and the newspapers publish sometimes protests of dissatisfaction against the numerous executions of innocent persons without judgment or even examination.

Krylenko and Diakonov protested in meetings and newspapers; they agitated against the right of the Extraordinary Commission to execute people without proof of guilt. The official *Izvestia* answered: "If among 100 executed 1 was guilty, this would be satisfactory and would sanction the action of the commission." Still a compromise was found: The Extraordinary Commission obtained the right to execute without judgment only in places where martial law was declared. But as the cities are long ago under martial law, and in other parts of Soviet Russia martial law can be declared any time, nothing has changed. In fact, prisoners whom it is desired to shoot without judgment are simply brought to Moscow, as it was done February last with those officers of the organization in Vladimir.

No meetings except those arranged by the Bolsheviks are allowed, and those caught at any gathering are shot or interned, according to the character of the meeting, in former monasteries.

February last the Socialist-Revolutionaries were permitted to publish their newspaper, which, however, was suppressed after a few days. From time to time anti-Bolshevist proclamations appear, but in case it is discovered where they have been printed,

the owner of the typography, even if he knew nothing of it, is shot. Such was the fate of the owner of the typography Ivanov.

About half of the arrested persons sentenced to death are not examined, and it is for this reason that so many deplorable mistakes occur. During the time of my imprisonment five such cases occurred.

Discontent and hatred against the Bolsheviks are now so strong that a shock or the knowledge of approaching help would suffice to make the people rise and annihilate the Communists. Considering this discontent and hatred, it would seem that elections to different councils should produce candidates of other parties. Nevertheless all councils consist of Communists. The explanation is very plain. That freedom of election of which the Bolsheviks write and talk so much, consists in the free election of certain persons, a list of which had already been prepared. For instance, if in one district six delegates have to be elected, seven to eight names are mentioned, of which six can be chosen. Very characteristic in this respect were the elections February last in the district of \* \* \* \* , Moscow Province, where I have one of my estates. Nearly all voters, about 200, of which 12 Communists, came to the district town. Seven delegates had to be elected and only seven names were on the prepared list, naturally all Communists. The local Soviet invited the 12 communistic voters to a house, treated them with food, tea, and sugar, and gave each 10 rubles per day: the others received nothing, not even housing. But they, knowing what they had to expect from former experiences, had provided for such an emergency and decided to remain to the end. The day of election was fixed and put off from day to day. After four postponements the Soviet saw no way out. The result was that the seven delegates elected by all against 12 votes, belonged to the Octobrists and Constitutional-Democrats. But these seven and a number of the wealthier voters were immediately arrested as agitators against the Soviet Republic. New elections were announced three days later, but this time the place was surrounded by machine guns. The next day official papers announced the unanimous election of Communists in the district of Vereia. After a short time peasant revolts started. To put down these Chinese and Letts were sent and about 300 peasants were killed. Then began arrests, but it is not known how many were executed.

Of course no freedom of professional trade union exists either. If a union elects as member of the committee one not belonging to

the Communists, the union and committee are subject to all sorts of ill-treatments, like requisition of their premises, arrest of members, house searching, etc., as it happened to the printer's union who elected Mensheviks as managers.

This is in general the political situation. Appalling terror, defenseless population, espionage and provocation are the factors thanks to which the Soviet Government still exists.

The economic situation is still worse and according to the People's Commissary Krassin's statement, a catastrophe. Transport scarcely exists. Notwithstanding the fact of abundant quantities of grain brought to eastern and southern governments there is no possibility of moving them, not even enough for the larger towns. The quantity of locomotives sent for repair is twice as large as that coming out ready for use; and adding to this the want of fuel, thanks to which trains often remain at stations several days waiting for delivery of wood, it is comprehensible why Moscow and other cities have no heating material and electric light.

For three months Moscow will have no electric light and no gas; tramways are running on three lines only and till 6 o'clock. The price for one cubic sashen (7 feet) now is 4,800 to 5,000 rubles (normal price 30-50 rubles). About 50 per cent of houses with central system of heating are no longer fit for use; the pipes have been frozen and burst.

Water and canalization pipes also burst and there is nothing to replace them with and no workmen either. The best houses were occupied by Bolsheviks; having no fuel they used the parquet and when pipes burst and canalization would not work, they used a room as W. C., and when it was no longer possible to live in such a flat they requisitioned another one, remarking cynically: Let the bourgeois clean the place after us; plenty of lodgings remain for us yet.

Furniture from private houses and storehouses is requisitioned and given, free of charge, to Communists and commissaries; the commissaries take and sell the best furniture, carpets, and pictures.

Most factories and mills have stopped working and the machines left to their fate; the rest, due to want of fuel and raw material, will soon follow. Zinoviev remarked of these: "They barely groan and scarcely cover the cost of fuel."

The productiveness of labor has fallen to a minimum, thanks to hunger and unwillingness to work for the Bolsheviks. Twenty-

four rubles per day has been declared as the minimum wage and February last an increase of 30 per cent was accorded, but not paid for want of currency. Payment of wages is delayed four to five weeks and sometimes two months. According to Commissary Gandler, who was in prison with me, most of the printed money is used for propaganda in all countries; in February large amounts were sent to India and Afghanistan. As the exchange has now fallen too much, the Bolsheviks send diamonds and other jewelry stolen from safes and during searches, and from the results of their sale the propaganda is carried on. Still this was not sufficient and from the beginning of March the Bolsheviks have been printing foreign money. I am repeating the words of former Commissary Gandler and believe he said the truth, as he was furious on account of his arrest. He could reveal much as he was a special commissary on the frontier and received particular instructions for passing agitators.

The bourgeoisie are literally starving and are selling their last belongings; belonging to the third category, they received three-fourths of a pound of bread and during the whole winter a few pounds of herring and other fish. Sick persons received increased nourishment, if certified by a Soviet doctor and a local Soviet. My wife obtained this grant after a series of petitions. And besides the ordinary allowances sick persons received in the course of one month 5 pounds of lentils and one-eighth pound of salted butter.

On all market places one can see bourgeoisie selling clothes and other belongings, to be able to buy food.

The agricultural situation is desperate. All agricultural equipment stolen from the estates is spoilt and there is no one to repair it, and it would not be of much use as there are no seeds and persons possessing such do not intend sowing them, but try to sell on the sly, as the Bolsheviks took last autumn's crop from the peasants at a low figure. Peasants just cultivate sufficient for their own needs and a quantity, which allowed, is kept. Former private estates are managed by a commission of all kinds of rabble or by a Soviet steward. In most cases all that was left on the estate disappeared; enormous accounts are presented, money received, and except immense losses, the estate produces nothing. Live stock, formerly stolen and sold by the Bolsheviks, now is requisitioned from the richer peasants.

Prices in Moscow in April were:	Rubles.
1 pound black bread.....	25-40
10 eggs .....	110-130
1 goose .....	55-60
1 pound butter .....	140-190
1 pound pork .....	125-150
1 pound hay .....	55-60

A drive by cab from the center of town to the station (about 2 miles) 250 to 300 rubles. Very often fallen horses remain in the streets for several days. Moscow is slowly dying from hunger, cold, and epidemics. Corpses remain unburied for two or three weeks; coffins cannot be had in sufficient numbers. Frequently **some unfortunate bourgeois** makes a coffin out of a chest of drawers for his dead child. Suicide is now not at all unusual. Last winter corpses of persons, who did not die from any contagious disease, were buried temporarily in the snow. Hungry dogs were feeding on these corpses and one could find in streets near the cemetery, hands or legs torn off these bodies.

"All Moscow" is seen daily on the Sukharev market, buying and selling. Everything can be bought for money: Forged passports cost from 1,000 to 5,000 rubles; for all sorts of false orders and certificates prices vary according to their importance. I have myself paid 10,000 rubles to a war commissary for a forged certificate for the right to travel by railroad.

From all this the economic bankruptcy of life is evident; organized theft and corruption increase the breakdown.

The military situation is also very poor. No one wants to serve; fear of being shot forces recruits to appear, but at the first possible moment most soldiers run away. In every regiment, in every battalion some Communists are placed and it was decided not to form any more special units of Communists. Trotsky came to the conclusion, that by spreading Communists all over the army the process of communism would be more complete; they play also the role of spies and provocators. When advancing they are behind the lines and shoot any deserters or those not showing fight, also in case of retreat. Only this threat keeps the soldiers back from more general desertion. It must be regretted that among the Russian officers a certain number serve the Bolsheviks, and not out of fear but sympathy; some are even staff officers, colonels, and generals — of the old army. But the bulk of officers going to the

front only think of how to go over to the other side. The war commissary, from whom I bought the forged certificate, told me that in the real sense of the word there is no army; there is a highly unreliable element ready at any given moment to turn arms against the Bolsheviks. He accompanied a division from Petrograd to the eastern front, and upon arrival only 280 soldiers remained with him. Horses are few and miserable, guns and ammunition are still sufficient from the old stock, but the new output does not replace the consumption.

Regarding the part Japan is playing in our country, I only know what Bolshevik papers say and we know next to nothing of what is going on abroad. They informed us chiefly of their successes and of different revolutionary movements in other countries. It is clear that the Russians have been deceived by beautiful phrases, exhausted under the yoke of Bolshevism and notwithstanding the earnest desire they can not emancipate themselves; the Intelligentsia is frightened and impotent, workmen went to the villages and mixed with the peasants who are also apprehensive, unarmed, and not organized. Those few who were able to escape the claws of the Bolsheviks and are ready to give their lives for the freedom of Russia, are not only doing this for their country but for humanity; the danger of the Bolshevik disease is threatening the whole cultured world, and if immediate and very energetic steps are not taken for the re-establishment of order in Russia, if a State power guilty of the worst deeds is allowed to remain in the hands of bandits, every day will increase the danger for the whole world, and make the difficulty of relief more precarious.

Help for Russia is needed immediately. Setting aside all other considerations, the liquidation of Bolshevism is not only a Russian, it is an international problem, and delay weakens the position of cultured humanity and thereby strengthens Bolshevik forces — the stranglers of all culture. The nations of the world can not silently sit by, witnesses of organized murder, theft, and plunder.

Let representatives of French workmen ask their compatriots Baré, Vaquié, Jeannean Harrié, who have been in prison with me, of the torments they suffered. Let the English working class take information from Col. Fraise and others, returned not long ago, of those horrors the latter have gone through and witnessed. And just let the workmen of all countries more closely and in detail become acquainted with what is going on in Soviet Russia. Then

they will understand that Russia in the hands of the Bolsheviks is nothing but a source of enrichment, and of propaganda in other countries, that the interests of the working classes are worse looked after than even under the Tsar, that at the head of the government are not the representatives of workmen and peasants, but a gang of bandits and mostly criminals. This gang persecutes all, bourgeois and workmen — whoever raises his voice to reveal their doings.

Covering themselves with the high-toned name of "workmen's government" they do not hesitate to execute workmen and by shooting them throttle the expression of opinion and righteous demands.

By a decree of the Soviet Government no strikes are allowed, and for this reason any one guilty is handed over for sabotage to the revolutionary tribunal, but most are punished without judgment.

The workmen of the Alexander Railroad had a meeting February last, demanding more bread; this meeting was dispersed by Chinese and Lettish troops resulting in several dozens dead and wounded. After this suppression all workmen received warning. Alarmed by the agitation amongst other workmen, the Soviet power published in the press that the suppression was an arbitrary act of the commissary who was dismissed. After a short time this same commissary received a new and better position in another town.

Scarcely any representatives of workmen are in the Executive Committee, unless one counts those criminals who years ago were workmen. When workmen began to object strongly, in order to smooth matters, a workmen, Kalinin, was elected and this election was then strongly advertised.

The barbarous suppression of the workmen in Briansk and Orel is unparalleled in the history of labor riots; even those of January 9, 1905, and the Lena trouble cannot be compared.

The working classes of other countries who sympathize with the Soviet Government in Russia should learn to know more closely the activity of that power. Then they would understand that by supporting the Bolsheviks they are undermining their own existence.

I repeat: Help is needed immediately and in great strength, without limit; Russia, torn to pieces and exhausted, will show that she can thank her rescuers.

## XIV.

## BUDGET OF THE FIRST SIX MONTHS OF 1919.

[Moscow Ekonomicheskaya Zhisn, May 21, 1919.]

Attempting a review of the State budget of the Russian Socialist Federated Soviet Republic for January to June, 1919, it is necessary to say a few words with regard to the preceding two revolutionary budgets: For January to June, 1918, and for July to December, 1918. Neither of these budgets reflects a full picture of the financial condition of the Russian Socialist Federated Soviet Republic, because of conditions attending their production. The budget for the first half of the year of 1918, gotten up immediately after the revolution accomplished toward the end of October, 1917, while differing essentially from the budgets of the previous years in its contents as well as in its special items, could not be satisfactory, because it was gotten up in a most acute moment of the revolution. The greatest weakness of that budget was the fact that it took no account of the operations of the chief producing organ — the Supreme Soviet of National Economy, nor of the operations of the People's Food Commissariat. No more did the budget for the second half of 1918 give a proper picture of all the financial-economic operations of the country. It also failed to account completely for all the economic operations of the country, and included principally expenditures of the consuming apparatus. From the operations of the chief productive organ, namely, the Supreme Soviet of National Economy and of the organ of distribution—the People's Food Commissariat—the budget of the second half of 1918 contained no revenues. The expenditures were taken account of only in the form of balances between gross receipts and expenditures, while both the Supreme Soviet of National Economy and the People's Food Commissariat disposed of their receipts as their own special resources apart from the general State budget.

The first peculiarity of the budget for January to June, 1919, consisted in the application of a new cardinal principle — that all receipts and all disbursements be calculated in the general State budget. The second modification in the new budget is the omission of the division into ordinary and extraordinary revenues and expenditures.

## Receipts:

Rubles.

1. Direct taxes .....	1,732,001,980
2. Indirect taxes .....	2,572,184,000
3. Customs .....	97,939,100
4. State regalia .....	810,696,500
5. State property .....	14,789,269,363
6. Reimbursement of expenses of State treasury .....	63,659,925
* 7. Miscellaneous .....	277,877,020
Total .....	20,343,627,888

## Disbursements:

Rubles.

1. All-Russian Central Executive Committee	459,156,742
2. Office of Council of People's Commissaries	842,045
3. Commissariat for Foreign Affairs.....	11,400,000
4. Commissariat for Affairs of Nationalities	16,714,337
5. Commissariat for Internal Affairs.....	655,542,712
6. Commissariat for Education.....	3,887,993,727
7. Commissariat for Labor.....	280,816,069
8. Commissariat for Public Health.....	1,227,834,057
9. Commissariat for Social Welfare.....	1,619,130,930
10. Commissariat for Justice.....	250,523,251
11. Commissariat for Finances.....	1,403,604,258
12. Supreme Soviet of National Economy..	5,813,951,055
13. Commissariat for Agriculture.....	532,725,811
14. Commissariat for Food.....	8,152,880,527
15. Commissariat for Commerce and In- dustry .....	202,007,828
16. Commissariat for Means of Communi- cation .....	5,072,906,230
17. Commissariat for Post and Telegraph..	573,103,010
18. Commissariat for Military Affairs.....	12,149,770,487
19. Commissariat for Naval Affairs.....	521,068,892
20. Commissariat for State Control.....	107,599,080
21. Central Statistical Office.....	69,119,000
22. All-Russian Evacuation Commission...	55,800,000
23. All-Russian Extraordinary Commission to Combat Counter-revolution, etc....	348,258,215
24. To liquidate annulled loans.....	100,181,020

25. Interest on debt to People's Bank by treasury .....	1,625,617,000
26. Expenses of nationalization and office of S. S. N. E. ....	5,162,625,009
27. Expenses of local soviets. ....	201,456,567
28. Appropriations for extraordinary expenses .....	200,000,000

Total ..... 50,702,627,832

*Comparison of receipts and disbursements in rubles (in millions)  
for January-June, 1919, January-June, 1918, and July-December, 1918.*

	1919, January-June.		1918			
			January-June		July-December	
	Receipts.	Disbursements.	Receipts.	Disbursements.	Receipts.	Disbursements.
<b>A. RECEIPTS AND DISBURSEMENTS IN PRODUCING.</b>						
Operations of Supreme Soviet of National Economy .....	5,812	8,685	.....	2,000	12	2,759
State sugar operation .....	493	344	582	472	584	363
State alcohol operation .....	257	242	97	15	53	10
State timber operation .....	164	89	40	45	164	90
	6,726	9,358	719	2,532	812	3,212
<b>B. RECEIPTS AND DISBURSEMENTS IN DISTRIBUTING.</b>						
Provisioning of population .....	6,500	8,153	.....	1,372	.....	3,143
Reserve state fund of provisions .....	2,250	.....	.....	.....	.....	.....
Purchase of goods abroad for nationalised undertakings .....	.....	127	.....	.....	.....	.....
	8,750	8,280	.....	1,372	.....	3,143
<b>C. RAILWAY AND WATER TRANSPORT.</b>						
Railways .....	923	5,004	731	3,791	490	3,471
Nationalised merchant fleet .....	302	425	256	460	302	3,902
	1,225	5,429	987	4,251	792	7,373
<b>D. MISCELLANEOUS RECEIPTS AND DISBURSEMENTS OF ADMINISTRATION.</b>						
Taxes and customs .....	2,123	.....	862	.....	10,820	.....
State regalia .....	61	.....	210	.....	105	.....
State capitals and property .....	1,117	.....	11	.....	143	.....
Various receipts .....	347	.....	64	.....	45	.....
Education, science, and art .....	.....	2,327	.....	525	.....	2,004
Public building .....	.....	1,396	.....	416	.....	1,002
Disbursements for defense .....	.....	12,491	.....	5,371	.....	9,782
Other disbursements .....	.....	11,423	.....	3,186	.....	6,078
	3,648	27,636	1,147	9,449	11,123	18,846
<b>Total .....</b>	<b>20,349</b>	<b>50,703</b>	<b>2,853</b>	<b>17,633</b>	<b>12,727</b>	<b>29,103</b>

(The author says that while the enormous deficit of 30,353,000,000 rubles is obtained, relatively, as seen from the comparison, it shows a favorable situation. For the first half of 1918 the deficit amounted to 83.8 per cent of the disbursement, and for the second half of 1918 the deficit amounted to 58.6 per cent. Since, however, in the receipts for the second half of 1918 the extraordinary levy of 10,000,000,000 which cannot be repeated, was included, the real deficit would amount to 90.7 per cent. For the first half of 1919 the deficit amounts to 59.8 per cent. The author considers it a hopeful progress and believes that the items of receipts can be increased in the future to equal disbursements.)

Analyzing separately the various group deficits, the author calls attention to the absence of receipts from the agricultural undertakings of the State and to the very conservative estimate of the receipts from the nationalized industries.

The author considers the real irreparable deficit to be that of the transport operations. He lays it at the door of the imperialistic war, which has ruined transport.

The disbursement of Group D for education, public buildings, and defence are considered not total losses, because of the values they create. The real deficit, according to the author, is 7,774,000,000 rubles and 4,204,000,000, for Group C.)

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## XV.

### INTERVIEW WITH GREGORY ALEXINSKY.

(Copenhagen Socialdemokraten, June 17, 1919.)

Our party colleague, Gregory Alexinsky, former Social-Democratic member of the Duma for Petrograd and of the Central Committee for the Social-Democratic Organization "Edinstvo" (the Marxist group founded by Plekhanov), has been in Copenhagen for the past few days. He has come from Moscow by the route Petrograd-Reval and has visited our editorial office, on which occasion we requested him to give our readers a picture of the situation of present day Russia. With great willingness our party colleague placed himself at our disposal for an interview, and we let him speak for himself in the following:

"I left Moscow on May 3," he states, "and left Petrograd on May 17. Thus the news of my country I can give you is fairly

fresh, particularly if you take into consideration the difficulties existing at the time in communication between Russia and Europe. At the time of my departure from Petrograd the condition of affairs in Bolshevist Russia was very distressing. The majority of the industrial enterprises are not operating. In the Moscow district 63 textile factories stopped working last fall, and the same picture appears with respect to the textile industry in the vicinity of Ivanovo-Voznesensk, near Petrograd, etc. The chemical industry, the paper industry and many others are likewise in a miserable condition."

But the metal industry? we ask. The munitions factories?

"Yes," Mr. Alexinsky answers, "in this instance the Bolshevist Government has done everything to keep the work going in the plants that produce ammunition, but nevertheless many of them are shut down. Owing to the lack of rolling stock transportation is not good either. The number of 'sick' locomotives and cars is so large that the workshops are unable to cope with the repairs."

How are conditions with respect to the taking over by the Bolsheviks of means of production, and to wages?

"In this respect the Government has entirely deserted the principles it had promised to apply. In order to increase the production it has already reintroduced the forms which existed prior to the socialization, particularly payment on piecework, the premium system, etc. In short, parity of wages does not exist.

"Among the causes which have prevented the socialization being carried through successfully the following must be emphasized: (1) Shortage of fuel and raw material; (2) our proletariat's inadequate preparation in technical, social and psychological respects, because instead of conceiving of socialization as an increase of its productive work the insufficiently developed and short-sighted workmen looked upon it exclusively as an increase of wages, an increase which is purely imaginary because the price of provisions is increasing steadily.

"But, in particular, Russia, which was in a precapitalistic stage of development, could not in the nature of affairs realize the socialistic order of its industries because — as Marx and Engels have established in general and their pupil Plekhanov for Russia — the socialistic order can not be invented according to the will of a few leaders, but must be the result of the consummation of the capitalistic development."

We requested our party colleague to explain what effect this dismal situation of Russia's industry, which he documented in the

above, has had upon the position of the working population, and, in particular, we asked for some practical examples as illustrations.

"This lamentable picture of our industry's decay has," he continues, "led to terrible complications for the workmen on account of the great shortage of provisions and an enormous increase in prices. Bread, 'black bread' — rye bread because there is no wheat left — costs 35 to 40 rubles per pound in Petrograd; sugar, 180 to 200 rubles per pound; butter 140 to 180 rubles; tea, 200 rubles; men's footwear, 1,200 to 1,500 rubles per pair, etc. Horse meat costs 30 rubles per pound. In Moscow prices are about on the same scale. On the big market in Moscow (Sukharev) dog meat is being sold openly, and the official financial gazette publishes statistics showing fluctuations in the price of such meat (5 to 7 rubles per pound). Even a box of matches costs between 3 1-2 and 4 rubles.

"I could mention many more such figures, but I believe that these are sufficient to prove to you how great the material sufferings are, which Russia's population must bear, even though it was promised a communistic paradise. Oh, it has obtained a very unsatisfactory position.

"On account of the shortage of provisions, fuel, soap, and other commodities that are absolutely indispensable for the public health and welfare, contagious diseases are spreading everywhere. In Moscow the official statistical bureau calculates 10,000 cases of contagious diseases per week. Of that number 8,000 cases are typhoid fever (*typhus exanthematicus*). In Petrograd 30 per cent of the patients in the communal hospitals die of ordinary consumption which is the result of famine. Coffins for burying the dead are lacking, and in Moscow the same coffin is used for various interments; a corpse is transported to the grave in a coffin, buried without the coffin, which is sent back to the city to be used for the transportation of the next corpse, etc. \* \* \*

"But," said Alexinsky, changing the subject, "I will not bore you and sadden you with all of these disconsolate descriptions. Let me tell you that I have stood in the ranks of Russian Social-Democracy for almost 20 years, and that it is naturally the interests of the workmen that occupy me most. In that respect I must state that these interests have suffered immeasurably through the present crisis. In Petrograd there are only about 700,000 inhabitants left out of two and one-half millions. Two-thirds of the city's labor population, which I represented in the

Duma, no longer exists; a part migrated into the country, another part died of starvation, etc. Some believe that we can only count on two to two and one-half million industrial workmen instead of the ten to twelve millions Russia had prior to the war and the domestic crisis. The remainder has spread like chaff before the wind, among the small bourgeoisie and the agricultural population. To use a comparison, I might say that the industrial proletariat's oases in Russia have been devoured by mighty stretches of sand out in the country's desert, and now it is the country that rules over the towns.

"This economic phenomenon is not favorable for us socialists, because we lose the ground on which we had worked hitherto, we lose the proletarian masses which had been our circle, our field of action. Therefore, we Marxian Social-Democrats, we representatives of scientific socialism, can by no means approve of the Bolshevik Government's economic and political activity, and we recollect Engel's prophetic words when he said that the worst misfortune that can happen to the proletariat is to assume the power prematurely, i.e. at a moment at which the country's general conditions are not sufficiently mature for the realization of genuine socialism. This disaster, our Russian party colleagues exclaims, has now dealt Russia's proletariat and economic and social blow which is appalling."

But the peasants' position, we interject, is that so brilliant?

"By no means," he answers. "From a material point of view they lack supplies and necessities. For instance, they have no petroleum and must illuminate their huts with ordinary bits of wood that are used as small torches and give very little light, but a lot of smoke. As they have no factory-woven stuffs, they must fall back on their grandmother's old methods and weave for themselves what they need in the clothing line.

"But it is of the utmost importance that the peasants have received the land as their property, and the land question is perhaps the only one that has been more or less solved by the revolution, in favor of the wide masses of the population. They all understand that, and even the old estate owners do not take any stock in the possibility of a return to former agrarian conditions. The White leaders also realize it, and Admiral Kolchak has issued a proclamation in which he promises the peasants that the estates they have taken away from the former owners shall remain in their possession until the all-Russian national assembly makes its decision. The leader of the Whites who occupied the towns of

Pskov (Pleskau) and Gdov (along the front between Petrograd and Pskov) issued a similar proclamation to the peasants. Thus one can state that under the exterior forms of 'communism' and 'socialization' the process of the transfer of land ownership from estate owners to peasants is being consummated in Russia. And that is the real import of the 'Social Revolution' in our country.

"Accordingly simultaneously with the destruction of capitalism in its highest grades of development in big industry and big business, it is being reborn from below and penetrating all pores of national economics in Russia. And Lenin himself has had to admit in a speech he recently made, that in place of the old bourgeoisie a new bourgeoisie is arising and becoming more and more numerous.

"That is what I am able to relate to you concerning the general character of conditions in Russia. With respect to the political and military situation, there is naturally a great deal more to tell, but perhaps I can speak of that some other day. \* \* \*"

In that manner our party colleague who was Russian delegate to the congress at Basle, closes his instructive narrative. But before he leaves us he reports the sad news that death has taken away Vera Zasulich, whose name in the ranks of Russian Social-Democracy is familiar to our readers, inasmuch as she founded the first Social-Democratic labor organization in Russia (1883) together with Plekhanov and Leo Deutsch. She died at Petrograd on May 9, after a long siege of sickness, due to inadequate food, as well as psychic collapse owing to her deep sorrow at witnessing the errors and disasters of her country's proletariat. Vera Zasulich lies buried in the Volkovo cemetery, by the side of Plekhanov, whose theoretical and political views she shared up to her last breath.

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## XVI.

### THESES OF LENIN, OF 1918.

(First read to party workers in January, but not published until March; Izvestia, Mar. 8, 1918.)

1. The situation of the Russian revolution at the present moment is such, that almost all workmen and the over-whelming majority of the peasants undoubtedly are on the side of the Soviet

authority, and of the social revolution started by it. To that extent the success of the socialistic revolution in Russia is guaranteed.

2. At the same time the civil war, caused by the frantic resistance of the propertied classes which understand very well that they are facing the last and decisive struggle to preserve private property in land, and in the means of production, has not as yet reached its highest point. The victory of the Soviet authority in this war is guaranteed, but inevitably some time yet must pass, inevitably a considerable exertion of strength will be required, a certain period of acute disorganization and chaos, which always attend any war and in particular a civil war, is inevitable, before the resistance of the bourgeoisie will be crushed.

3. Further, this resistance takes less and less active, and non-military forms: Sabotage, bribing beggars, bribing agents of the bourgeoisie who have pushed themselves into the ranks of the socialists in order to ruin the latter's cause, etc. This resistance has proven stubborn, and capable of assuming so many different forms, that the struggle against it will inevitably drag along for a certain period, and will probably not be finished in its main aspects before several months. And without a decisive victory over this passive and concealed resistance of the bourgeoisie and its champions, the success of the socialistic revolution is impossible.

4. Finally, the organizing tasks of the socialistic reorganization of Russia are so enormous and difficult, that a rather prolonged period of time is also required to solve them, in view of the large number of petty bourgeoisie fellow-travelers of the socialistic proletariat, and of the latter's low cultural level.

5. All these circumstances taken together are such that from them result the necessity, for the success of socialism in Russia, of a certain interval of time, not less than a few months, in the course of which the socialistic government must have its hands absolutely free, in order to triumph over the bourgeoisie, first of all in its own country, and in order to adopt broad and deep organizing activity.

6. The state of affairs respecting the socialist revolution in Russia must be made the foundation for any definition of the international tasks of the new Soviet authority; for the international situation in the fourth year of the war has become such that the probable moment of the outbreak of revolution, and the overthrow of any of the European imperialistic governments (in-

cluding the German) absolutely can not be calculated. There is no doubt that the socialist revolution in Europe must come and will come. All our hopes for the definitive triumph of socialism are based on this conviction, and on this scientific prevision. Our propagandist activities in general, and the organization of fraternization in particular, should be strengthened and developed. But it would be a mistake to build up the tactic of the socialistic government in Russia on attempts to determine whether or not the European and especially the German socialist revolution will come within the next six months (or a similarly short period). As it is quite impossible to decide this fact, all attempts to do so would really amount simply to a blind gamble.

7. The peace negotiations at Brest-Litovsk have shown quite clearly to date, January 7, 1918, that in the German Government, which leads the other Governments of the quadruple alliance by the bridle, the military party has without question gained the ascendancy, and has in fact already presented an ultimatum to Russia (one can, one must, expect the formal presentation of the ultimatum from day to day). This ultimatum is as follows: Either further war or an annexationist peace, that is a peace on the condition that we give up all lands occupied by us, while the Germans keep all the lands occupied by them, and impose on us a contribution (externally concealed as payment for the support of prisoners of war) of about three billion rubles, to be paid in instalments over the period of several years.

8. The Socialist Government of Russia faces a question that requires an immediate decision, whether to accept immediately this annexationist peace or to carry on immediately a revolutionary war. No middle course is really possible. Further postponements are quite out of the question, inasmuch as we have already done everything possible, and impossible, to drag along artificially the negotiations.

9. Examining the arguments in favor of an immediate revolutionary war, we meet first of all the argument that a separate peace would now mean, objectively, an agreement with the German imperialists, an "imperialistic bargain," etc., and that therefore such a peace would be a complete rupture with the fundamental principles of proletarian internationalism.

But this argument is clearly unsound. The workmen who lose a strike; and sign conditions for the resumption of work that are disadvantageous for them and advantageous for the capitalist,

do not betray socialism. Only those betray socialism who exchange advantages for a portion of the workmen against advantages for the capitalists, and only such agreements are inadmissible.

It is treason to socialism to call a war against German imperialism a defensive and just war, when in fact one receives support from Anglo-French imperialists, and one hides from the people the secret agreements with the latter. He who without hiding anything from the people, and without concluding any secret treaties with imperialists, agrees to sign terms of peace disadvantageous for a weak nation, but advantageous for the imperialists of one group if at the moment there is no strength to continue the war, does not commit the slightest treason to socialism.

10. The other argument in favor of immediate war is that by concluding peace we in fact become the agents of German imperialism, for we give the latter the release of troops from our front, millions of prisoners, etc. But this argument also is clearly unsound, for a revolutionary war at the present moment would in fact make us the agents of the Anglo-French imperialism, giving to the latter strength that would assist it in its aims. The English made the direct proposal to our commander-in-chief, Krylenko, to pay 100 rubles a month for each soldier in the event of the continuation of the war. Even if we do not take a single kopeck from the English and French, nevertheless, we shall in fact be helping them by keeping occupied a portion of the German troops.

On the other hand in both cases we shall not be breaking completely with either of the imperialistic connections; and it is clear that it is not possible to break off such connections completely until imperialism has been overthrown the world over. The correct conclusion then is the following: Until the victory of a socialistic government in one of these countries, one must decide all questions not from the point of view of preference for this or that imperialism, but exclusively from the point of view of the best conditions for the development and strengthening of the socialist revolution, which has already begun.

In other words the principle lying at the basis of our tactic should not be which of the two imperialists it is more profitable to assist at the present moment, but should be what is the better and more hopeful way to secure for the socialist revolution the possibility of strengthening itself or at least of maintaining itself in one country; until other countries shall join.

11. They say that the German Social-Democrats who opposed the war have now become "defeatists," and ask us not to give way to the German imperialism. But we have recognized defeatism only with respect to one's own imperialistic bourgeoisie, while we have always rejected victory over a foreign imperialism, a victory secured by formal or actual alliance with "friendly" imperialism, as a method in principle inadmissible and in general useless.

This argument consequently is only a variety of the preceding one. If the German Left Social-Democrats should propose to us to put off the separate peace for a certain length of time, guaranteeing a revolutionary outbreak in Germany within that period of time, then the question might present itself differently to us. But the German Lefts not only do not speak of this, but on the contrary they declare in a formal manner: "Hold out as long as you can, but decide the question in accordance with the situation of Russian socialist revolution, for one can promise nothing positive with respect to the German revolution."

12. Some say that we have in fact "promised" a revolutionary war in a series of party declarations and that the conclusion of a separate peace would be going back on our word. This is not true. We spoke of the need, for a socialistic government, of "preparing and conducting" a revolutionary war in a period of imperialism; we said this in order to combat abstract pacifism — the theory of the complete denial of "defense of country" — in a period of imperialism, and finally to combat the purely bodily instincts of a portion of the soldiers, but we did not assume any obligation to begin a revolutionary war without taking in account the extent to which it could be carried on at this or that moment.

And now we should without any question speak of revolutionary war. We shall carry out this promise of ours, just as we have in general carried out all our promises, which could be carried out immediately; we opened up the secret treaties, we proposed to all peoples a just peace, we dragged out the peace negotiation in every possible way, and several times, in order to give other peoples time to join in.

But the question whether it is possible now, immediately, to conduct a revolutionary war, must be decided by reckoning out the exclusively material conditions of carrying it on and also the interests of the socialistic revolution that has already begun.

13. Summarizing then the arguments in favor of an immediate revolutionary war, one must come to the conclusion that such a

policy would perhaps correspond to the requirements of mankind in its striving for the beautiful, the effective and clear, but would not at all take into account the objective interrelations of class forces, and the material factors at the present moment of the socialistic revolution that has started.

14. There is no doubt that our army at the present moment, and for the next few weeks (and probably also the next months) is absolutely not in a condition successfully to resist the German attacks, in the first place because of the extreme weariness and exhaustion of the majority of the soldiers in the presence of an unheard-of breakdown of the food supply service and so forth; in the second place, as the result of the complete inadequacy of the supply of horses, so that our artillery is destined to inevitable loss; in the third place, as the result of the utter impossibility of the defending the coast from Riga to Reval, which gives the enemy the surest chance to conquer the remaining positions of Livland, and then of Estland, to surround and cut off a large portion of our troops, and finally to take Petrograd.

15. Further, there is also no doubt that the peasant majority of our army at the present moment would undoubtedly express itself in favor of an annexationist peace, and not in favor of an immediate revolutionary war; for the work of creating a socialistic revolutionary army, putting into it detachments of the Red Guard and such, has only just been begun.

With the complete democratization of the army, it would be a mere adventure to carry on war against the will of the majority of the soldiers, and at least several months are necessary to build up a really solid, and ideally strong, socialistic workman-peasant army.

16. The poorest peasants in Russia are in a state to support a socialistic revolution led by the workman class, but they are not ready immediately, at the present moment, to go in for a serious revolutionary war. It would be a fatal mistake to disregard this objective interrelation of class forces in connection with the given question.

17. The situation with respect to the revolutionary war at the present moment therefore stands as follows:

If the German revolution should break out in the next three or four months, then perhaps the tactic of an immediate revolutionary war would not ruin our socialistic revolution.

But if the German revolution does not start within the next months, then the course of events, the war being continued, will

certainly be such that greater defeats will force Russia to conclude an even more disadvantageous separate peace, and further this peace will be concluded not by a socialistic government, but by some other (for example, by a combination of the bourgeois Rada with reactionary elements, or some such combination); for the peasant army, exhausted beyond endurance by the war, after the very first defeats probably not in the month but in a week will overthrow the socialistic workmen's government.

18. With such a state of affairs it would be an absolutely inadmissible tactic to gamble with the fate of the socialistic revolution that has already begun in Russia, simply on the chance that the German revolution will begin within a very short time, that can be measured in weeks. Such a tactic would be an adventure. We have no right to take such risks.

19. And a German revolution will not at all be made more difficult, with respect to its objective bases, if we shall conclude a separate peace. For the time the outburst of chauvinism will probably weaken it, but Germany will still remain in a very difficult position. The war with England and America will be a long-drawn out affair; aggressive imperialism on both sides has been exposed completely and definitely.

The example of a socialistic Soviet Republic in Russia will stand as a living model for the peoples of all countries and the propagandist and revolutionizing effect of this model will be gigantic. Here — the bourgeois order of society and the exposed predatory war of both groups of brigands while there — peace and the Socialistic Republic of Soviets.

20. By concluding peace we free ourselves as completely as is possible at the present moment from both warring imperialistic groups; taking advantage of their hostility, and of the war that makes it difficult for them to make a deal against us, we shall use a certain period when our hands are free, to continue and strengthen the socialistic revolution. The reorganization of Russia on the principle of the dictatorship of the proletariat, on the principle of the nationalization of banks and of large industrial enterprises, with the exchange of goods in natura between the town and the village cooperative societies of small peasants, is economically fully possible, on the condition that one is secured several months of peaceful activity. And such a reorganization will make socialism unconquerable, both in Russia and in the whole world, creating at the same time a solid basis for a powerful workman-peasant Red Army.

21. In fact, a revolutionary war at the present moment would be a war of a socialistic republic against bourgeois countries, with the clearly-expressed aim, fully approved by the socialistic army, of overthrowing the bourgeoisies in other countries. But we can not yet at the present moment deliberately set ourselves such an aim. We would be fighting, objectively, for the liberation of Poland, Lithuania, and Courland.\* But not a single Marxist who does not break with the principles of Marxism, and of socialism in general, can deny that the interest of socialism stands above the interests of the right of nations to self-determination. Our socialistic republic has done everything that it can, and continues so to do, for the realization of the right of self-determination of Finland, the Ukraine, and so forth. But if the concrete state of affairs has become such that the existence of the socialistic republic is endangered at a given moment by the violation of the right of self-determination of several nations (Poland, Lithuania, Courland, and others), yet, of course, the interests of preserving the socialistic republic stand higher.

Therefore, whoever says "We can not sign a disgraceful, indecent, etc., peace, betray Poland, and so forth," does not see that by signing peace on the condition of the liberation of Poland, one has simply still further strengthened German imperialism against England, Belgium, Serbia, and other countries. Peace on the condition of the liberation of Poland, Lithuania, Courland, would be a "patriotic" peace from the point of view of Russia, but it would not cease to be a peace with annexationists, with German imperialists.

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## XVII.

### WORLD REVOLUTION.

[Bolshevik Program, from Chapter XIX of Pamphlet entitled "Program of Communists," by N. Bukharin; July 24, 1918.]

The program of the Communist Party is the program not only of liberating the proletariat of one country; it is the program of liberating the proletariat of the world, for such is the program of the "International Revolution." At the same time it is the program of liberating all smaller, oppressed countries and peoples. Those robbers, the "Great Powers" (England, Germany, Japan,

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\* The last lines were spoken and not read.

America) have stolen an immense quantity of lands and peoples. They divided the world between themselves. It is not surprising that in these stolen countries the workmen and toilers are suffering under double pressure, under the pressure of their own bourgeois as well as under the pressure of the conquerors. The Tsar's Russia also stole many countries and peoples; that is why our "empire" is so enormous. Therefore among many of our so-called "aliens" and also among some of the non-Russian proletariat there was no faith in the Great-Russians. \* \* \* For the definite victory of the workmen's revolution a complete mutual confidence between the different parts of the proletariat is all important. It must be pointed out and proved that the proletariat of the oppressing nation was a faithful ally of the proletariat of other nations. In Russia the dominant nation was the Great-Russian, who conquered the Finns, Tartars, Little-Russians, Armenians, Georgians, Poles, and many other peoples. It is natural that even among the proletariat of these peoples there exists a wrong conception concerning every Russian. They have been accustomed to see how the Tsar forcibly used Russians, and because of that have believed all Russians, even the members of the proletariat, to be of the kind.

Therefore, in order to create a brotherly union between the different divisions of the proletariat, the communist program announces the right of working classes of every nation to complete separation. That is to say, the Russian workmen who has the power, says to workmen of other peoples living in Russia: "Comrades, if you do not care to become members of our Soviet Republic, if you desire to form your own Soviet Republic, do so. We give you the full right to do so. We do not wish to hold you by force a single minute."

Only by such tactics it is possible to win the confidence of the whole proletariat. We have only to imagine what would happen in case the Great-Russian Soviet should keep in subjection the working classes of other nations, and the latter should protect themselves with arms. It is evident that this would mean the entire failure of the proletarian movement, the complete collapse of the revolution. It is impossible to act in this way, for, we repeat, a brotherly union of proletarians is the one guarantee of victory.

We do not speak of the right of self-determination of nations (i. e., of their bourgeoisie and their workmen), but only of the right of the working classes. Therefore, the so-called "will of the

nation" is not sacred for us. Should we wish to learn the will of the nation, we would be forced to call a Constituent Assembly of the nation. For us, the will of the proletariat and of the semi-proletarian masses is sacred. \* \* \* During the dictatorship of the proletariat, not the will of the Constituent Assembly, but the will of the Soviets of the working people decides the question. And if at the same time in two different parts of Russia two assemblies should be called, a Constituent Assembly and a Congress of Soviets, and the former should against the will of the latter proclaim a "separation," we will defend the latter with all means, using armed force if necessary.

That is the manner in which the proletarian party decides the question of different peoples of the same country. But then comes up the broader question of its international program. The way is clear here. It is the way of the world-wide support of the international revolution, of revolutionary propaganda, of strikes and rebellions in imperialistic countries, of uprisings in the colonies of these countries.

In the imperialistic countries (and such are all of them, except Russia, where the workmen have smashed the rule of capital) that section of the Social-Democrats which stand for the defense of the country is one of the most serious obstacles. It is even now setting forth the idea of defending the country (robbers' country), telling different lies to the wide working classes. It pursues our friends, the Germans, Austrian, and English Bolsheviks, who are the only ones who contemptuously reject the idea of defending the bourgeois countries. It wails over the decomposition of the (robber) army. The situation of the Soviet Republic is quite an exceptional one. It is the only state organization of the proletariat in the whole world, among the robber organizations of the bourgeoisie. Therefore it alone has the right to be defended. Moreover, it must be regarded as the fighting weapon of the universal proletariat against the universal bourgeoisie. The fighting slogan of this struggle is quite clear now. It is the International Soviet Republic.

The overthrowing of imperialistic governments by armed uprisings and the organization of an International Soviet Republic is the way of the International dictatorship of the working class.

The most forceful way to maintain the international revolution is by the organization of the armed forces of revolution. All workmen of all countries, who are not blinded by traitor Socialists, by their Socialist Revolutionaries and their Mensheviks (and

these are found in each country) see in the workmen's revolution in Russia and in the Soviet authority their own cause. Why? Because they see that the Soviet authority is the authority of the workmen themselves. It would be quite different if the bourgeoisie, assisted by the Mensheviks and the Socialist-Revolutionaries, should overthrow the Soviets, should call the Constituent Assembly and through it should recreate the bourgeois authority, for example, as it existed before the October revolution. Then the working class would lose its country for it would lose its power. Then inevitably the banks would be returned to bankers, the factories to manufacturers, the land to the landowners. The land of "profits" would then revive. And the workmen would have no interest to protect such a country. On the other hand, the workmen of Western Europe would be unable to find in bourgeois Russia a lighthouse, which lights them in their hard struggle. The development of the international revolution would be checked.

On the other hand, the strengthening of the Soviet authority, the organization of armed forces of the workmen and poorest peasants, the organization of resistance to international robbers who are going against Soviet Russia as enemies, because they are members of different classes, such as landowners and capitalists, like a band of "hangmen of the workmen's revolution," and finally the organization of the Red Army would strengthen the revolutionary movement in European countries. The better we are organized, the stronger the armed detachments of workmen and peasants, the more powerful the dictatorship of the proletariat in Russia, the more quickly will the international revolution come.

This revolution will inevitably come, despite the efforts of German, Austrian, French and English Mensheviks. The working masses in Russia have cut all relations with the compromisers. The workmen of all Europe will do, and in fact are already doing, the same. The slogan of overthrowing robber governments and of the dictatorship of workmen is winning more and more sympathy. Sooner or later we will have the International Republic of Soviets.

This International Soviet Republic will liberate from oppression hundreds of millions of inhabitants of colonies. The "civilized" robber powers tortured the population of colonial countries by a régime of terror. European civilization was maintained by exploitation and by stealing small peoples in distant countries. The latter will be liberated only by the dictatorship of the proletariat. Just as the Russian Soviet authority has actually proved

that it is not willing to continue the colonial policy (for instance Persia) so the European workmen, after overthrowing the rule of the bankers, will give complete freedom to the exploited and oppressed classes. Therefore, the program of our party, which is the program of international revolution, is at the same time the program of complete liberation of the weak and oppressed. The great class — the working class — sets itself great tasks. It also is solving these tasks in a bloody, torturing and heroic fight.

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## XVIII.

## ARTICLE BY TROTSKY.

[Petrograd Pravda, Apr. 23, 1919.]

The decisive weeks in the history of mankind have arrived. The wave of enthusiasm over the establishment of a Soviet Republic in Hungary had hardly passed when the proletariat of Bavaria got possession of power and extended the hand of brotherly union to the Russian and Hungarian Republics. The workmen of Germany and Austria are hurrying in hundreds of thousands to Budapest where they enter the ranks of the Red Army. The movement of the German proletariat, temporarily interrupted, again bursts forth with ever-increasing strength. Coal-miners, metal workers, and textile workers, are sending brotherly greetings to the victorious Hungarian Republic and demand of the German Soviets a complete change of front, that is, a break with imperialists — their own, the English, French and American — and the forming of a close union with Russia and Hungary. There is no doubt that this movement will be given a still more powerful swing by the victory of the proletariat in Bavaria, the Soviet government of which has broken all ties with the oppressors of Berlin and Weimar, with Ebert and Scheidemann, the servants of German imperialism, the murderers of Liebknecht and Rosa Luxembourg.

In Warsaw, which the allied imperialists tried to make the center for the attack on Soviet Russia, the Polish proletariat rises in its full stature and through the Warsaw Soviet of Workmen's Deputies sends greetings to the Hungarian Soviet Republic.

The French minister of foreign affairs, Pichon, the sworn enemy of the Russian revolution, reports in Parliament on the sad state of affairs: "Odessa is being evacuated" (this was

before the occupation of Odessa by Soviet troops); "the Bolsheviks are penetrating the Crimean Peninsula, the situation in the north is not favorable." Things are not going well. The Greek soldiers landed on the shores of Crimea, according to the reports of allied diplomats and newspaper men, were mounted on Crimean donkeys, but the donkeys were not able to arrive in time at the Perekop Isthmus. Things are not going well. Evidently even donkeys have begun to shake off the imperialistic harness.

Foreign consuls do not wish to leave the Ukraine and urge their governments to recognize the Ukrainian Republic. Wilson sent to Budapest not troops of occupation, to overthrow the Soviet Republic, but the honey-tongued General Smuts to negotiate with the Hungarian Council of People's Commissaries.

Wilson has definitely changed front and evidently has forced France to give up all hope of an armed crusade against Soviet Russia. War with Soviet Russia, which was demanded by the senseless French general, Foch, would take 10 years in the opinion of the American statesmen.

Less than six months have passed since the decisive victory of the Allies over the central empires; six months ago it seemed that the power of the Anglo-French and American imperialism was without limits.

At that time all the Russian counter-revolutionists had no doubt that the days of the Soviet Republic were numbered; but events now move steadfastly along the Soviet road. The working masses of the whole world are joining the flag of the Soviet authority, and the world robbers of imperialism are being betrayed even by the Crimean donkeys. At the present moment one awaits from day to day the victory of the Soviet Republic in Austria and in Germany. It is not impossible that the proletariat of Italy, Poland, of France will violate the logical order and outstrip the working class of other countries. These spring months become the decisive months in the history of Europe. At the same time this spring will decide definitely the fate of the bourgeois and rich peasant, anti-Soviet Russia.

In the east, Kolchak has mobilized all his forces, has thrown in all his reserves, for he knows definitely that if he does not win immediately then he will never win. Spring has come, the spring that decides. Of course the partial victories of Kolchak are insignificant in comparison with the general conquests of Soviet authority in Russia and in the whole world. What does the temporary

loss of Ufa mean in the face of the occupation of Odessa, the movement into the Crimea and especially the establishment of the Bavarian Soviet Republic? What does the evacuation of Belebey, caused by military considerations, mean in the face of the powerful growth of the proletarian revolution in Poland and in Italy? Nevertheless, it would be criminal frivolity on our part to disregard the danger represented by the White-Guardist bands of Kolchak on the east. Only stubbornness, steadfastness, watchfulness, and courage in the military struggle have guaranteed till now to the Russian Soviet Republic its international success. The victorious struggle of the Red Army on all fronts has aroused the spirit of the European working class, and has made possible the establishment and strengthening first of the Hungarian and then of the Bavarian Republic. Our work has not yet been completed. The bands of Denikin have not been definitely defeated. The bands of Kolchak continue to move toward the Volga.

Spring has come; the spring that decides; our strength is increased tenfold by the consciousness of the fact that the wireless stations of Moscow, Kiev, Budapest, and Munich not only exchange brotherly greetings but business agreements respecting common defensive struggle. But at home, on our own territory, we must direct the main portion of our increased strength against the most dangerous enemy — against the Kolchak bands. Our comrades of the Volga district are well aware of this. In the province of Samara all Soviet institutions have been put on a war footing, and the best forces have been diverted to support the army, to form reserve regiments to carry on agitation of an educational character in the ranks of the Red army. Party, Soviet, and trade union organizations in Syzran have unanimously responded to the appeal of the central authority to support the eastern front. A special shock regiment is being organized from the workmen and popular elements, which only recently were groaning under the heel of the White-Guardist. The Volga district is becoming the center of attention of all Soviet Russia. To carry out our international duty we must first of all break up the bands of Kolchak in order to support the victorious workmen of Hungary and Bavaria. In order to assist the uprising of workmen in Poland, Germany, and all Europe, we must establish definitely and irrefutably the Soviet authority over the whole extent of Russia.

To the Urals: This is the slogan of the Red Army and of the whole Soviet country.

The Urals will be the last stage in this bitter struggle. Victory in the Urals not only will give grain to the famished country and cotton to the textile industries, but will secure finally the well-earned rest for our heroic Red Army.

L. TROTSKY.

## XIX.

### THE COMMUNIST INTERNATIONAL ON MAY 1 APPEALS TO THE TOILERS OF THE WHOLE WORLD.

[Severnaya Kommuna, Apr. 25, 1919.]

Proletarians of all countries unite! Long live May 1! Long live communism!

Comrades!

Exactly 30 years ago, in 1889, at the International Socialist Congress, when the Second International was held, the workmen of all countries decided to celebrate May 1 as the day of the mobilization of proletarian forces, the day of struggle, the day of international brotherhood, of the eight-hour working day, of the abolition of standing armies (against war). These were the slogans of the first May 1 holiday 30 years ago.

In 1890 the European bourgeoisie trembled as the 1st of May approached. In Vienna, Paris, and a whole series of other European countries the bourgeoisie organized whole regiments, expecting the immediate uprisings of workmen. Since that time the celebration of May 1 has been a symbol of proletarian solidarity.

But in the official Social-Democracy there developed from that time larger and larger groups that were hostile to the cause of the proletariat. When the imperialistic war started the Socialist-traitors, both German and French, proposed to the working class to abandon the celebration of May 1 in 1915, and the May 1 celebration of the proletariat in 1915 was perverted to a May 1 celebration of the bourgeoisie.

Four years have passed since that time, during which the bourgeoisie has pitilessly shattered by fire and sword the flower of the working class and has ruined all countries. Now the war started by the bourgeoisie is coming to a close. Thirty millions killed and crippled, dozens of countries ruined, millions of starving people, millions of new war debts — these are the results of the imperialistic war.

The Second International died. It wrote its own death sentence on August 4, 1914, when the German and French socialist-patriots voted for war credits, that is, to support the imperialistic war.

The workmen of all countries, exhausted by the war and betrayed by their own leaders, are eagerly looking for an international bond to join them together. The robber-imperialists of Paris are trying to create their Black International, the so-called League of Nations. The conscious workmen of the whole world understand clearly that the so-called League of Nations is in fact a league to suppress the proletarian revolution. The socialist-traitors in Berne also tried to create their Yellow International.

It was impossible to bring back to life the corpse of the Second International. The revolutionary workmen of all countries refused to take part in this despicable comedy staged in Berne.

In 1919 was formed the Red International. Our Third International, of Communists, is an international association of the proletarians of all countries who set for themselves the aim of overthrowing the bourgeois governments and establishing the international republic.

Our Third Communist International has undertaken to organize the international celebration of May 1.

Workmen, workwomen, soldiers, sailors, peasants, all toilers! The Communists International calls on you to take part in the great May 1 proletarian holiday.

If the bourgeois slave-owners will remain in power they will force on us a war, a new servitude, new taxes, amounting to billions, hunger and complete slavery. Over all Europe ruins are smoking and millions of proletarian children are dying of hunger. There is no grain anywhere, for during four years, instead of cultivating the fields people killed each other by order of a group of slave-owners. The cities are being depopulated. In some countries almost the entire mature male population has been killed. Europe has been covered with blood.

The communist revolution grows. The Soviet republics in Russia, Hungary, and Bavaria report what has been accomplished daily. Germany is shaking with civil war. A revolution is taking place in Turkey. In Austria and Czecho-Slovakia the workmen are gathering under the glorious flag of Socialism. In France enormous demonstrations have started; in Italy the struggle boils and the workmen call for a dictatorship of the proletariat. In England strikes have taken on the character of an epidemic. In

America the working class comes out on the streets; in Japan the workmen are agitated; in the neutral countries like Holland and Switzerland hundreds and thousands of workmen recently took part in a political strike. The workmen of all countries have understood that the decisive moment has come. "Soviets" — by this you will conquer.

The workmen know that only a dictatorship of the proletariat can save humanity from that bloody horror into which the bourgeoisie in all countries has plunged it. The workmen know that the proletarian dictatorship will lead to a triumph of Socialism. There is no middle course. Either the bloody dictatorship of executioners-generals, who will kill hundreds of thousands of workmen and peasants in the name of the interests of a band of bankers, or the dictatorship of the working class, that is of the overwhelming majority of toilers which will disarm the bourgeoisie, create its own Red Army and free the whole world of slavery. Down with the autocracy of tsars and kings.

This last cry was raised in Russia in 1917 and its echo was heard over the whole of Europe. Crowns fell from the heads of Nicholas Romanov, William Hohenzollern, Karl of Austria and other executioners of larger and smaller calibre.

Down with the autocracy of capital! This cry is now raised when they rise a second time — when they get ready for the last fight.

The eight-hour labor day — that was the slogan of May 1 holiday in the past. Soviet republics have already carried out this demand.

Against bourgeois militarism this old May 1 demand remains in force even to-day. In the name of this demand we shall create our own Red Army, a class army, the People's Army, the army of labor, the army of the poor, the army of Socialism.

The Red Army already exists in Russia, Hungary, Bavaria, and Austria. The Red Army soon will exist over all the world. The Red Army will triumph.

Long live civil war, the only just war, in which the oppressed class fights its oppressors.

Down with the French imperialists.

Down with the bourgeoisie of the Entente.

Down with the robbers who wish to send their troops to Russia in order to re-establish the authority of landlords, enthrone the monarch, and restore the bourgeoisie.

May 1, 1919, should become the day of attack, the day of the proletarian revolution in all Europe.

Let the workmen of all countries refuse to give up the rifles which the bourgeoisie forced them to take in 1914. The arming of workmen and the disarming of the bourgeoisie — these are the slogans of the moment.

The conflicts which have taken place to date in various countries were simply the preliminary skirmishes between labor and capital. The decisive struggle is approaching.

Amidst storms, blood and tears, hunger and endless suffering a new world is being born, a bright world of communism, of the common brotherhood of the toilers.

In 1919 was born the great Communist International.

In 1920 will be born the great International Soviet Republic.

Long live May 1!

(Signed) EXECUTIVE COMMITTEE OF THE COMMUNIST  
INTERNATIONAL.

G. ZINOVIEV, *President*.

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## XX.

### SUPPLEMENTARY RUSSIAN-GERMAN TREATY, AUGUST 27, 1918.

[Izvestia, Sept. 3, 1918.]

Supplementary Treaty to the Treaty of Peace between Russia for the one part, and Germany, Austria-Hungary, Turkey, and Bulgaria for the other.

Guided by the wish to solve certain political questions which have arisen in connection with the peace treaty of March 3-7, 1918, between Russia for the one part, and Germany, Austria-Hungary, Bulgaria, and Turkey for the other part, in the spirit of friendly understanding and mutual conciliation, and, in so doing, to promote the restoration of good and confidential relations between the two States, for which a way was paved by the conclusion of peace, the Government of the Russian Socialist Federated Soviet Republic and the German Imperial Government have agreed to conclude a supplementary treaty to the Peace Treaty with this object, and have appointed as their plenipotentiaries:

For the Government of the Russian Socialist Federated Soviet Republic: Its diplomatic representative accredited to the German Imperial Government, M. Adolf Joffé;

For the Imperial German Government: The Secretary of State for Foreign Affairs, the Imperial Privy Councillor, Rear Admiral Paul von Hintze, retired; and the Director in the Foreign Office, the Imperial Privy Councillor, Dr. Johann Kriege.

After exchanging their credentials, and finding them in correct and proper form, the plenipotentiaries agreed to the following provisions:

#### CHAPTER I.—DEMARCATIONS AND FRONTIER COMMISSIONS.

##### ARTICLE 1.

In so far as this has not yet been done, Russian-German Commissions will immediately be formed to fix demarcation lines for all fronts where German and Russian troops face one another. Exact details as to this shall be agreed on by the commanders of of the troops on each side.

These demarcation lines shall be so drawn that there are neutral zones between the respective fronts, which zones must not be trodden by any members of the respective armies, with the exception of parliamentaries. In so far as there is not regular traffic between the respective fronts, such traffic will be established by the demarcation commissions.

##### ARTICLE 2.

The Russian-German Commission for fixing the frontier line, provided for in article 3, paragraph 1, of the Peace Treaty, shall also fix the eastern frontiers of Esthonia and Livonia, agreed on in article 6, paragraph 2, of that treaty, more exactly.

After the fixing of the eastern frontier of Esthonian and Livonia, provided for in paragraph 1, Germany will evacuate the territory occupied by her east of this frontier without delay.

##### ARTICLE 3.

Germany will evacuate the territory occupied by her east of the Beresina, even before the conclusion of general peace, in proportion as Russia makes the cash payments stipulated in article 2 of the Russian-German Financial Agreement of this date; further provisions as to this, particularly the fixing of the individual

sectors to be evacuated, are left to the commission referred to in article 2, paragraph 1, of this Supplementary Treaty.

The contracting parties reserve the right to make further agreements with regard to the effecting of the evacuation of the occupied territory west of the Beresina before the conclusion of general peace, in accordance with the fulfilment by Russia of the remaining financial obligations undertaken by her.

## CHAPTER II.—SEPARATIST MOVEMENT IN THE RUSSIAN STATE

### ARTICLE 4.

In so far as is not otherwise prescribed in the Peace Treaty or in this Supplementary Treaty, Germany will in no wise interfere in the relations between the Russian State and parts of its territory, and will thus in particular neither cause nor support the formation of independent States in those territories.

## CHAPTER III.—NORTH-RUSSIAN TERRITORY.

### ARTICLE 5.

Russia will at once employ all the means at her disposal to expel the Entente forces from North-Russian territory in observance of her neutrality.

Germany guarantees that during these operations there shall be no Finnish attacks of any kind on Russian territory, particularly on Petrograd.

### ARTICLE 6.

When the Entente forces shall have evacuated North-Russian territory, the local Russian coast shipping within the 3-mile limit from the north coast, and the fishing sailing boats within a stretch of 30 miles along this coast, shall be relieved of the barred-zone menace. The German naval command shall have an opportunity, in a way to be further agreed upon, of convincing itself that this concession shall not be taken advantage of to forward contraband goods.

## CHAPTER IV.—ESTHONIA, LIVONIA, COURLAND, AND LITHUANIA.

### ARTICLE 7.

Russia, taking account of the conditions at present existing in Esthonia and Livonia, renounces sovereignty over these regions,

as well as all interference in their internal affairs. Their future fate shall be decided in agreement with their inhabitants.

No obligations of any kind toward Russia shall accrue to Esthonia and Livonia through their former union with Russia.

#### ARTICLE 8.

To facilitate Russian trade through Esthonia, Livonia, Courland and Lithuania the following is agreed:

##### No. 1.

In Esthonia, Livonia, Courland, and Lithuania the through transport of goods to and from Russia on routes liable to the payment of duty shall be absolutely free, and the goods to be transported shall not be subject to any transit duties or general transport dues.

##### No. 2.

On the railways connecting Russia with Reval, Riga, and Windau, the freight tariffs on the goods to be forwarded in through trade with Russia are to be kept as low as possible. They may only be raised above the rates in force on August 1, 1914, by taking the average of the amount by which a general rise in the freight tariffs of the lines in question may be necessary to cover the cost of working and upkeep, including the payment of interest, and timely redemption of the capital invested. Neither must they be higher than the freight tariffs for goods of the same kind of inland origin or destination, which are forwarded over the same lines and in the same direction.

##### No. 3.

Shipping on the West Dvina between Russia and the open sea, as well as between all places on the Livonian-Courland Dvina, and on the Russian Dvina is, subject to prevailing police regulations, to be free for the transport of goods and passengers, without any discrimination in regard to the ships and the subjects of the one or the other party. It is not to be subject to any tax based solely on the fact of the navigation. It is not to be subject to any stations, slips, depot, turnover, or harborage dues.

Exclusive shipping privileges must not be granted either to companies or corporations or to private persons of any kind.

Taxes for the use of works and institutions which are created, or may be created in future, to facilitate traffic, or to improve and

maintain the navigation of the river, may only be raised uniformly in accordance with published tariffs and to the extent necessary to cover the cost of restoration and upkeep, inclusive of payment of interest and redemption of the capital invested. The cost of restoring and keeping up works and institutions which are not for the facilitation of traffic and the improvement and maintenance of the navigation of the river, but are intended to further other objects and interests, may be raised only to a proportionate extent by shipping dues.

The provisions of Nos. 1 to 3 preceding apply also to timber rafts.

#### No. 4.

At Reval, Riga, and Windau, Russia shall have suitably situated free port zones assigned to her, in which the storing and unpacking of goods coming from or intended for Russia, can take place without hindrance, and the work of dispatching goods from or to the Russian Customs zone can be done by Russian officials.

#### No. 5.

The individual questions connected with the provision of Nos. 1 to 4, particularly the restrictions to which these provisions may be subjected in war time out of consideration for war necessity, or for urgent sanitary reasons, shall be regulated by a special agreement.

#### ARTICLE 9.

The water of Lake Peipas is not to be artificially diverted on either side to such a degree as to lower the water level. No methods of fishing calculated to diminish the stock of fish will be permitted; a further agreement as to this is reserved.

The water power of the Narova is to be made available when possible for the supply of electricity for the Province of Petrograd according to a special agreement to be made regarding this.

#### ARTICLE 10.

With regard to Esthonia, Livonia, Courland, and Lithuania, agreements, among other agreements, are to be concluded with Russia, as to the following points:

1. With regard to the nationality of the former Russian inhabitants of these territories, as to which they must in any case be allowed the right of option and departure;

2. With regard to the return of the property in Russia belonging to citizens of these territories, particularly that belonging to

publicly recognized societies, establishments, and charitable institutions, as well as the property in these territories which belongs to Russian citizens;

3. With regard to an arrangement concerning the property of the communal associations cut up by the new frontiers;

4. With regard to an arrangement concerning the archives, the documents of the legal and administrative authorities, the legal and administrative trusts, and the register of births, marriages, deaths, etc.;

5. With regard to the regulation of the new frontiers;

6. With regard to the effect of the territorial alterations on the State treaties.

#### CHAPTER V.—RUSSIAN BLACK SEA TERRITORY WITH EXCEPTION OF THE CAUCASUS.

##### ARTICLE 11.

With reservation of the provisions of article 12, Germany will evacuate the Russian Black Sea territory, outside the Caucasus, occupied by her after the ratification of the treaty of peace to be concluded between Russia and the Ukraine.

##### ARTICLE 12.

The parts of the occupied territory which do not belong to the districts referred to in the third Ukrainian Universal of November 7, 1917, shall be evacuated by the German forces at latest on the conclusion of the general peace, in so far as the peace between Russia and the Ukraine shall not have come into being before then.

The evacuation of the railway line Rostov-Voronezh, as well as of the occupied territory east of it, and a suitable frontier district west of it, including the town of Rostov, will follow as soon as this is demanded on the Russian side. Until the evacuation, Germany will permit the forwarding of grain and other goods for the Russian Government, under the supervision of Russian officials, on those portions of the railway situated in the occupied territory; the same applies for the portions of the railway lines Taganrog-Rostov and Taganrog-Kursk, lying in the occupied territory, for the duration of the occupation.

So long as the Donetz Basin is occupied by German troops in accordance with article 11 and article 12, paragraph 1, Russia shall receive monthly from the quantities of coal extracted there a three-times greater number of tons than it lets Germany have of

crude oil or crude oil products from the Baku district in accordance with article 14, paragraph 2, and a four-times greater number of tons for the consignments of benzine contained therein. In so far as the coal supply in the Donetz Basin is not sufficient for this, or must be used for other purposes, it will be supplemented by German coal.

## CHAPTER VI.—THE CAUCASUS.

### ARTICLE 13.

Russia agrees to Germany's recognizing Georgia as an independent State.

### ARTICLE 14.

Germany will give no assistance to any third power in any military operations in the Caucasus outside Georgia or the districts mentioned in article IV, paragraph 3, of the Peace Treaty. She will also take measures to prevent the military forces of any third power in the Caucasus overstepping the following lines: The Kuban, from its mouth to Petropavlovsk; from there onward the boundaries of the district Shemakha to Agrioba; thence a straight line to the point where the boundaries of the districts of Baku, Shemakha, and Kuban meet; thence along the northern boundary of the district of Baku to the sea.

Russia will do her utmost to further the production of crude oil and crude oil products in the Baku district, and will supply to Germany a quarter of the amount produced, or at least a number of tons, to be agreed upon later, per month. In so far as the quantities produced in the Baku district are not sufficient to supply this number of tons, or must be used for other purposes, they will be supplemented by quantities produced elsewhere. The price will be reckoned by the value of the coal Russia is to be allowed to have in accordance with article 12, paragraph 3, and the remainder will be reckoned by the value of the commodities which Germany is to be allowed to have from Russia in accordance with Article 3. No. 2 of the Russian-German Financial Agreement of this date.

## CHAPTER VII.—TREATMENT OF RUSSIAN WARSHIPS AND RUSSIAN STORES CONFISCATED BY GERMAN MILITARY FORCES AFTER THE CONCLUSION OF PEACE.

### ARTICLE 15.

Germany recognizes Russia's ownership of the Russian warships confiscated by German forces after the ratification of the

Peace Treaty, subject to Russia coming to terms with the Ukraine and Finland as to the national property of the former Russian Empire.

The warships confiscated will remain under German supervision until the conclusion of the general peace.

#### ARTICLE 16.

Germany admits Russia's claim to be compensated for the Russian stores which have been confiscated outside the Ukraine and Finland by German forces after the conclusion of peace. This compensation will be reckoned in when Germany's and Russia's financial obligations arising from the Supplementary Treaty to the Peace Treaty are settled.

### CHAPTER VIII.—CONCLUDING PROVISIONS.

#### ARTICLE 17.

This Supplementary Treaty shall be ratified, and the ratification documents shall be exchanged not later than September 6, 1918, in Berlin.

The Treaty comes into force on the day the ratification documents are exchanged.

In witness whereof the plenipotentiaries have signed and sealed this Supplementary Treaty.

Executed in duplicate in Berlin on this 27th day of August, 1918.

A. JOFFE,  
VON HINTZE,  
KRIEGER.

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## XXI.

### RUSSIAN-GERMAN FINANCIAL AGREEMENT, AUGUST 27, 1918.

[Izvestia, September 4, 1918.]

The Financial Agreement supplementing the Russian-German Supplementary Treaty to the Treaty of Peace between Russia for the one part, and Germany, Austria-Hungary, Bulgaria, and Turkey for the other.

On the basis of paragraph 2, article 35, of the Russian-German Supplementary Treaty to the Peace Treaty concluded between Russia for the one part and Germany, Austria-Hungary, Bulgaria, and Turkey for the other, the plenipotentiary of the Russian Socialist Federated Soviet Republic, namely, the diplomatic rep-

representative of the Soviet Republic accredited to the Imperial German Government, M. Adolf Joffé, and the plenipotentiaries of the German Empire, namely, the Secretary of State for Foreign Affairs, Imperial Privy Councillor, Rear-Admiral M. Paul von Hintze retired and the Director of the Department for Foreign Affairs, Imperial Privy Councillor, Dr. Johann Kriege, have agreed to regulate the financial obligations between Russia and Germany arising from the Russian-German Supplementary Treaty, the reciprocal return of bank deposits and bank balances due, as well as the adjustment of certain differences in the economic systems of the two countries, and for these purposes to conclude a supplementary agreement to the Russian-German Supplementary Treaty, taking into consideration the Russian regulations in regard to the annulment of Russian State Loans and State Guarantees, and the nationalization of certain property values in Russia.

The plenipotentiaries, after exchanging their credentials, which were found to be in correct and proper form, came to an agreement in regard to the following provisions:

CHAPTER I.—THE FINANCIAL OBLIGATIONS OF RUSSIA AND GERMANY ARISING FROM THE RUSSIAN-GERMAN SUPPLEMENTARY TREATY TO THE PEACE TREATY.

ARTICLE 1.

The following provisions of the Russian-German Supplementary Treaty to the Peace Treaty concluded between Russia for the one part and Germany, Austria-Hungary, Bulgaria, and Turkey for the other, are annulled: Article 2, article 8, in so far as it relates to payments by Russia on State obligations, including the State guaranteed loans; No. 1; paragraph 2, article 9, in so far as it does not relate to exemption from payment of taxes; clause 2, No. 3, article 9; subclause 1, clause 2, paragraph 2, article 12; articles 13 to 15; paragraph 1, article 16; paragraph 2, article 16, in so far as it relates to Russian expropriations effected before July 1, 1918; and No. 3, article 17, and No. 4, paragraph 2, article 17.

ARTICLE 2.

Russia shall pay Germany six billion marks as compensation for losses sustained by Germans through Russian measures; at the same time corresponding claims on Russia's part are taken into account, and the value of supplies confiscated in Russia by German military forces after the conclusion of peace is taken into account.

**ARTICLE 3.**

The payment of six billion marks mentioned in article 2 shall be effected in the following manner:

**No. 1.**

The sum of one and a half billion shall be paid by the transfer of 245,564 kilograms of gold and 545,440,000 Rs., in bank notes consisting of 363,628,000 Rs. in bank notes of 50, 100, or 500 Rs., and 181,812,000 Rs. in bank notes of 250 or 1,000 Rs.

The transfer shall be effected by five installments, namely, (1) a payment of 42,860 kilograms of fine gold and 90,900,000 Rs. in bank notes, consisting of 60,600,000 Rs. in bank notes of 50, 100, or 500 Rs., 30,300,000 Rs. in bank notes of 250 or 1,000 Rs.; this payment shall be made on September 10, 1918; (2) four payments which shall be made on September 20, October 31, November 30, and December 31, 1918, each amounting to 50,676 kilograms of fine gold and 113,635,000 Rs. in bank notes consisting of 75,757,000 Rs. in bank notes of 50, 100, or 500 Rs. and 37,878,000 Rs. in bank notes of 250 or 1,000 Rs.

Each payment shall be delivered to the representatives of the German Government at Pskov or at Orsha; on receipt of the money the representatives shall issue a temporary receipt which shall be replaced by a final discharge after the gold and bank notes have been checked and counted.

**No. 2.**

The sum of one billion marks shall be canceled by the delivery of Russian commodities on the basis of a special agreement, which shall be concluded in this connection. Before November 15 and December 31, commodities are to be delivered to the value of 50 million marks each time; before March 31, June 30, and December 31, 1919, commodities are to be delivered each time to the value of 150 million marks; before March 31, 1920, commodities to the value of 300 million marks; in so far as the deliveries cannot be effected within these periods the amount lacking in each individual case shall be immediately made up either by payment in German Imperial bank notes at their face value or in fine gold and bank notes in rubles in the proportion of 3 to 2 and at a rate which must be separately fixed in each case.

**No. 3.**

The sum of two and a half billion marks shall be paid by December 31, 1918, through the transfer of securities of a loan

at 6 per cent from January 1, 1919, with a sinking-fund of  $\frac{1}{2}$  per cent, and this loan is issued by the Russian Government in Germany at the nominal amount of the above mentioned sum, and the terms of the loan shall be considered an essential part of this agreement.

Certain State revenues, and in particular the rental dues for certain economic concessions which will be granted to Germans, shall serve as guarantees of the loan mentioned in paragraph 1; guarantees shall be settled severally by the establishment of a special agreement in such a form that the estimated yearly income from them shall exceed the yearly sum required for interest and sinking-fund by at least 20 per cent.

#### No. 4.

With regard to the balance of one billion marks, in so far as its payment, with the consent of Germany, will not be taken over by the Ukraine or Finland in their agreement with Russia regarding the distribution of property, the parties reserve the right to enter on a special agreement.

#### ARTICLE 4.

Property of Germans situated in Russia, which was expropriated before July 1, 1918, to the use of the State or local self-government bodies, or the owner of which was in any other way deprived of the right to dispose of it, shall be returned on demand to the owner, subject to the return of the compensation received by him from the sum named in Article 2, with due regard to possible improvements or damage if the property has not remained in the possession of the State or local self-government bodies, or if expropriation or any other form of confiscation of similar property has not been effected, or is annulled, in regard to the local inhabitants or citizens of a third Power; demands for the return of property must be made within a year from the period when it can be claimed.

#### ARTICLE 5.

The provisions of article 8 of the Supplementary Treaty to the Peace Treaty remain in full force, in so far as they do not relate to payment on the Russian State debt, as do the provisions of paragraph 2, article 16, in so far as they relate to Russia expropriations after July 1, 1918, and the provisions of clause 2, paragraph 1, article 19, and of clause 1, article 22, and those of articles 28 to 32.

With regard to payment and guarantee of the financial obligations arising from these provisions, the parties reserve the right

to conclude a further agreement, in so far as this has not already been regulated in Chapter III of the present agreement.

#### ARTICLE 6.

The contracting parties will supply each other with all possible information for the establishment of the civil damages sustained by the citizens of one party on territory over which the authority of the other party extends, and will likewise satisfy demands for the production of proofs relating to such damages.

#### CHAPTER II.—SURRENDER OF BANK DEPOSITS AND BANK CREDITS.

#### ARTICLE 7.

Each contracting party shall take care that the property values (bank deposits) of citizens of the other party, which are lodged on its territory with banking or financial institutions, including the moneys and certificates deposited for them with a central institution for the safe-keeping of valuables, or with an officially recognized trustee of valuables or in some other deposit institution which is recognized by the Government, be made over on demand of the authorized persons, with the right to despatch them to their native countries exempt from State taxes and duties.

Each party shall regard the bank deposits of citizens of the other party within its territory, as the deposits of the citizens of the other party as interpreted by paragraph 1, if these deposits have been made in the name of such citizens. In other cases a special proof is required showing that the deposits are those of citizens of the other party; possible disputes in this connection shall be decided by a commission consisting of a representative from each of the two Governments and a neutral chairman.

Commissions provided for in paragraph 2 shall be set up at Moscow, Petrograd, and Berlin immediately after the coming into force of this agreement; the chairman shall be appointed, with the consent of the Royal Swedish Government by the Swedish consuls in these places.

#### ARTICLE 8.

Each contracting party shall take care that the banking and financial institutions within its territory, immediately after the coming into force of this agreement, without any reference to the extension of time provided for in clause 1, paragraph 1, No. 3, of article 7 of the Supplementary Treaty to the Peace Treaty, shall pay out the sums demanded by the rightful possessors, for which payment is due and which belong to the citizens of the

other party. The rightful owner may also despatch the sums obtained by him to the territory of his native State, exempt from State taxes and duties.

In regard to bank credits, mentioned in paragraph 1 of this article, the provisions of paragraphs 2 and 3 of article 7 apply.

#### ARTICLE 9.

In order to hasten the delivery of bank deposits and credits as provided by articles 7 and 8, each contracting party shall immediately appoint a State commissary to whom their respective citizens hand in their claims before January 31, 1919. The two commissaries shall communicate these claims to one another not later than September 25, 1918, for the first time, then November 15, 1918, for the second time, and not later than February 15, 1919, for the third time, and see that the bank deposits and credits to be delivered on this basis shall be transferred on October 25, 1918, December 31, 1918, and March 31, 1919, and immediately after the decision of the commission, in so far as these claims have been verified under paragraph 2, article 7, and paragraph 2, article 8, by the Mixed Commission. The transfer shall take place in Moscow on the side of Russia and in Berlin on the side of Germany.

Each contracting party takes care that the delivery, in so far as the rights of banks or of third persons to these deposits or credits are not in conflict, shall take place against an authenticated release of the person in whose name the deposit or credit stood, or who is recognized as authorized by the Commission referred to in paragraph 2, article 7. Should another person claim the deposit or credit on the ground of inheritance or legal succession to the entire property of a judicial person, the release can be presented by this other person, if he belongs to the same contracting party as the original claimant and if his right is attested by a statement of the State commissary of this party.

In all other cases the right must be specially proved to the banking or financial institution where the deposit or credit rests.

Persons wishing to present their claims without the mediation of the State commissary, may apply direct to the banking or financial institutions, in the case of German citizens, only after October 25, 1918, and in the case of Russian citizens only after December 31, 1918.

#### ARTICLE 10.

The provisions of articles 7 and 8 find corresponding application to the bank deposits and credits in Russia of citizens of

Courland, Livonia, Esthonia, and Lithuania, in particular to the moneys, certificates and other valuables abstracted in these provinces during the war, as also to the bank deposits and credits in these provinces of Russian citizens, including deposits in the State Bank as successor in title to all nationalized Russian private banks.

### CHAPTER III.—THE ADJUSTMENT OF CERTAIN DIFFERENCES IN THE ECONOMIC SYSTEMS OF BOTH COUNTRIES.

#### ARTICLE 11.

Property of Germans in Russia shall in future be expropriated or its owner otherwise deprived of the right to dispose of it, only if the expropriation or other form of withdrawal is made in favor of the State or of local self-government bodies under legislation which applies to all the inhabitants of the country and to the citizens of a third country, and to all property of a similar nature, and further if the owner immediately receives compensation in cash.

The amount of the compensation to be paid, in accordance with paragraph 1, shall be determined by two experts, of whom one shall be appointed by the Russian Government, and the other by the rightful claimant; should these persons not come to an agreement, they shall invite a third expert as chairman, who shall be appointed by the Swedish Consul, if no other arrangement has been made.

#### ARTICLE 12.

Property which has been expropriated in accordance with Article 11 or whose owner has been deprived of the right to dispose of it, shall be returned to the owner on his demand, against the return of the money paid him in compensation, and with regard being had to possible improvement or damage, in all cases where the property does not remain in the public possession of the State or of local self-government bodies, or if the expropriation or other form of withdrawal of similar property is annulled as regards the inhabitants of the country, or the citizens of a third country; the demand for return of the property must be made within a year of the time it can be claimed.

#### ARTICLE 13.

The provisions of paragraph 2, article 11, and of article 12, find corresponding application in so far as property of Germans in Russia has been expropriated or its owner deprived of the right

to dispose of it, after July 1, 1918, and before the coming into force of this agreement.

Demands for return in cases mentioned in paragraph 1, can be made when an expropriation or any other form of withdrawal of similar property has not been carried out in regard to inhabitants of the country, or citizens of a third country; such demands must be made within one year after the coming into force of this agreement.

#### ARTICLE 14.

German creditors may demand satisfaction in respect to their claims arising before July 1, 1918, and immediately after these have fallen due, from the balances of their debtors in Russian banks, if their claims are recognized as valid by both the debtor and the bank. In case there is no acknowledgment on the part of the debtor, a court decision having the force of law may be substituted; if the validity of the claim is disputed by the bank, the matter is decided by the commissions in Petrograd and Moscow, referred to in paragraph 3, article 7.

#### ARTICLE 15.

The Russian-German Convention of October 31 (November 12), 1874, regarding inheritances shall remain in force on condition that, in regard to all cases of inheritance which will arise after the new regulations of rights of inheritance in Russia, the provisions for movable property shall apply also to immovable property, and that the inheritance shall be taxed only by the native State of the deceased, and further that the Convention shall not be disclaimed during the whole period when the right of inheritance in Russia is abolished or essentially limited.

Further, the contracting parties reserve the right to supersede certain provisions of the Convention regarding inheritance, which have proved to be inapplicable in practice, by new provisions more suited to present conditions.

### CHAPTER IV.—CONCLUDING PROVISIONS.

#### ARTICLE 16.

This agreement shall be ratified and exchange of ratification documents shall take place in Berlin by September 6, 1918.

This agreement comes into force on the day of the exchange of ratification documents.

In witness whereof the plenipotentiaries have signed and sealed this agreement.

Executed in duplicate in Berlin, August 27, 1918.

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# ASSEMBLYMAN'S EXHIBIT 10

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FEBRUARY 27, 1920

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Supreme Court of the District of Columbia.

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Mandamus No. 63184.

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THE UNITED STATES OF AMERICA, EX REL. THE WORKINGMEN'S  
COOPERATIVE PUBLISHING ASSOCIATION, RELATOR,

*against*

ALBERT S. BURLESON, POSTMASTER GENERAL OF THE UNITED  
STATES, RESPONDENT.

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*RELATOR'S REPLY TO RESPONDENT'S ANSWER.*

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S. JOHN BLOCK,

SETH SHEPARD,

*Attorneys for Relator,*

*Washington, D. C.*

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# Supreme Court of the District of Columbia.

THE UNITED STATES OF AMERICA, EX REL.  
the Workingmen's Cooperative Publish-  
ing Association, Relator,

*against*

ALBERT S. BURLESON, Postmaster Gen-  
eral of the United States, Respondent.

No. 63134.

**REPLY OF WORKINGMEN'S COOPERATIVE PUBLISHING ASSOCIA-  
TION, RELATOR, TO THE ANSWER OF ALBERT S. BURLESON,  
POSTMASTER GENERAL OF THE UNITED STATES, RESPONDENT,  
TO THE RULE TO SHOW CAUSE AND TO THE PETITION FOR  
MANDAMUS.**

*To the Supreme Court of the District of Columbia:*

In reply to the answer of Albert S. Burleson, Postmaster General of the United States, respondent, to the rule to show cause and to the petition for mandamus herein, the relator, The Workingmen's Cooperative Publishing Association, states as follows:

1. The relator denies each and every allegation contained in paragraph "3" of the answer, reading as follows: "that on divers occasions as hereinafter duly set forth the relator has persistently and flagrantly violated the act of June 15, 1917, as amended, known as the espionage act, and section 211 of the Penal Code of the United States, as amended."

2. Upon information and belief, the relator denies each and every allegation contained in paragraph "4" of the answer, reading as follows: "that during said period 63 issues of said publication were declared nonmailable by the Post Office Department and were excluded from the mails (so far as it was practicable to do so)," except that the relator admits that during said period a number of issues of said publication were declared nonmailable by the respondent, or by the Post Office Department, under his direction, and were excluded from the mails.

3. The relator denies the allegation contained in paragraph "5" of the answer that the citation from the Post Office Department, dated October 2, 1917, mentioned and referred to in said paragraph "5" was sufficient.

4. As to the allegations contained in paragraph "14" of the answer, the relator says, upon information and belief, that there was no warrant upon the facts and under the law for a finding by the Post Office Department that any issues of the relator's publication were in violation of the espionage act and that the respondent, without warrant of law, declared certain issues of said publication to be nonmailable under the espionage act.

5. As to the allegations contained in paragraph "17" of the answer that the respondent in each case in which an issue of The New York Call or The Evening Call was considered by the respondent or by the Post Office Department to be nonmailable, the issues were held "nonmailable under the espionage law," and that the publisher was so notified, the relator says that the statement of the respondent that the issues were held nonmailable under the espionage law did not constitute a sufficient statement of the grounds or reasons for the action taken by the respondent or by the Post Office Department.

6. The relator has no definite knowledge as to whether or not "Exhibit A," referred to in paragraph "19" of the answer, is a true copy of the application referred to in paragraph "19" of the petition.

7. As to the allegations contained in paragraph "30" of the answer that at the conference on June 20, 1919, at the office of Mr. Dockery, the Third Assistant Postmaster General, no stenographic notes were made of the remarks of anyone at said conference and that the interview as set forth in paragraph 30 of the petition does not correctly show the remarks of the parties who participated therein, the relator says, upon information and belief, that at said conference correct notes of said remarks were made by one of the persons who was present during said conference and that the interview as set forth in paragraph 30 of the petition does correctly show the remarks of the parties who participated therein.

8. As to the allegation contained in paragraph "31" of the answer that on December 5, 1919, the Third Assistant Postmaster General addressed to the Postmaster at New York the communication referred to in said paragraph "31" of the answer, the relator has no knowledge.

9. The relator denies each and every allegation contained in paragraph "31" of the answer, reading as follows: "that on divers occasions, as hereinafter fully set forth, the relator has persistently and flagrantly violated the act of June 15, 1917, the espionage act as amended by the act of May 16, 1918, as well as section 211 of the Penal Code, as amended, both prior to the filing of said application for the second-class mailing privilege on January 9, 1919, and up to the filing of the petition in this suit, and at no time since the filing of said application has the relator been entitled under the law to have the second-class mailing privilege granted to it."

10. As to the allegation contained in paragraph "32" of the answer reading as follows: "that while much of such matter may have passed through the mails, the burden placed upon the post office establishment by the espionage and other laws made it physically impossible, with the force at its disposal, to detect and exclude from the mails all of the millions of pieces and hundreds of tons of mail placed in the mails in violation of such laws in sealed packages and unsealed wrappers so prepared for mailing as each piece had to be opened and read in order to detect its illegal character," the relator says that the respondent was charged with the enforcement of the law and that he had at his disposal the substantial resources of the United States of America to enable him by the earnest, sincere and efficient management of his high office properly to administer and enforce the law and to detect and exclude from the mails any unlawful or nonmailable issue or issues of any newspaper which circulated through the second-class mails, and that the respondent, with full knowledge of the contents of the several issues of *The New York Call*, which the respondent declared were of such a nature as to require the withdrawal of the second-class mailing rights of said publication, permitted said issues of said publication to circulate through the second-class mails, thus indicating that none of the said issues contained any matter which violated any of the laws of the United States of America and which made such issues nonmailable.

11. The relator denies the allegations contained in paragraph "35" of the answer that the action of the respondent in revoking the second class permit of *The New York Call* and in declining to grant the application for the re-entry of *The New York Call* to the second-class mailing privilege on its application filed January 9, 1919, involved the exercise of judgment and discretion on

his part, and that the action of the respondent is not subject to be reviewed, reversed, set aside or controlled by a court of law, and that his action in that behalf cannot be commanded, directed or controlled by the writ of mandamus, as the relator in its petition has prayed. The relator says that the said action of the respondent involved only ministerial acts on the part of the respondent and not the exercise of judgment and discretion and that the respondent did act arbitrarily and without warrant in law in revoking said second-class mailing permit and in declining to grant said application for re-entry to the second-class mailing privilege, and that the action of the respondent is subject to review, reversal and control by a court of law and that his action in that behalf can and should be commanded, directed or controlled by such writ of mandamus.

12. As to the allegation contained in paragraph "37" of the answer that on June 24, 1908, there was issued a certificate or permit for the entry of The New York Call into the mails as second-class matter, which was addressed to the Postmaster at New York city, and which concluded with this provision: "The authority herein given is revocable upon determination by the Department that the publication does not conform to the law," which action, as the respondent avers, was duly communicated to the relator by the Postmaster of New York city by delivery of a true copy of the certificate to it, and that the relator thereupon accepted the privilege conferred thereby and continued to enjoy it until on or about November 13, 1917, when the same, after hearing granted the relator, was annulled, the relator says that it has no knowledge of such delivery of a true copy of said certificate to it and that, whether or not a true copy of said certificate was delivered to the relator, the respondent or the Post Office Department was without power or authority under the law to revoke the said certificate or permit upon a determination by the said Department that the said publication does not conform to the law.

13. As to the allegation contained in paragraph "37" of the answer that the Congress of the United States of America by act approved June 15, 1917 — the espionage law aforesaid — did among other things declare every publication of any kind in violation of its provisions nonmailable, and did forbid the same to be conveyed in the mails or delivered from any post office or by any letter carrier, and that it became and was the duty of the respondent

to inquire into and pass upon publications tendered for mailing and to prevent, so far as in him the power lay, the reception in, transmission through, or delivery by the postal service of any such prohibited matter, the relator denies that the respondent in said allegation has sufficiently apprised this honorable Court of the provisions of the said law and the relator respectfully refers this honorable Court to the said act of June 15, 1917, for a complete statement of the provisions thereof.

14. As to the allegations contained in paragraph "38" of the answer that from the date of the declaration of war and continuously down to the acts complained of by the relator, the respondent, from matter received at the Post Office Department from various sections of the country, finds there existed an organized propaganda to discredit and impede in every way the Government in the prosecution of the war, with the purpose of defeating the objects for which the Government was spending billions of dollars and was called upon to sacrifice thousands of lives, the relator has no knowledge. As to the provisions contained in paragraph "38" of the answer that the publications forming this propaganda subtly guard their utterances in the attempt to avoid the criminal liabilities of their acts under said espionage law and that they have been, nevertheless, united in publishing the same character of matter, whether partially true or entirely false, and daily accomplished results in clear violation of law, the relator is without knowledge. The relator denies the allegation contained in said paragraph "38" of the answer that among said publications is that of the relator, The New York Call. The relator denies the allegations contained in said paragraph "38" of the answer reading as follows: "These publications, including The New York Call, in varying language brand the declaration of war by our Government as a crime against the people of the United States and against the nations of the world, and represent that in all history there has been no war more unjustifiable than the one in which we are engaged; that no greater dishonor has even been forced upon the people than that which the capitalist class is forcing upon this Nation against its will. They advocated active and public opposition to the war through demonstrations, mass petitions, and all other means within the power of their readers and the organizations they represented, and unyielding opposition to all proposed legislation for military or industrial conscription; opposition to the Liberty Loans upon which the Government was dependent to finance its war operations,

and held up to admiration and sought to make martyrs of notorious violators of the espionage law who were indicted and convicted in the courts from time to time for acts in violation of that statute," except that the relator admits that at various times it has published articles in various issues of The New York Call, concerning the war and the participation of the United States therein and concerning the acts and conduct of certain elected and appointed public officials in the administration of the government and concerning the unjust indictments and conviction of certain alleged violators of the espionage law and the unjust, unusual and cruel punishments inflicted upon said persons, and that the relator avers that in publishing said articles the relator acted lawfully and in pursuance of the rights and privileges guaranteed by Article I of the articles in addition to an amendment of the Constitution of the United States of America, which reads as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

15. The relator denies the allegations contained in paragraph "39" of the answer that the relator's publication systematically and continually violated the provisions of the espionage law and that respondent duly and legally issued the citation and granted the hearing mentioned in said paragraph "39." The relator admits that certain of the alleged excerpts from the publication of the relator, set forth in said paragraph "39" of the answer, are correct excerpts from certain issues of said publication, but the relator avers that in certain instances said excerpts are incomplete and the relator respectfully refers this honorable court to the several issues of the said publication, containing the alleged excerpts.

16. As to the allegations contained in paragraph "40" of the answer that the articles or excerpts mentioned in paragraph "39" of the answer were not the only articles which were considered by the respondent and that the respondent considered other matter contained in various issues of the relator's publication, but not specifically mentioned in the answer, in determining the mailable character of the matter sent through the mails in said publication, the relator states that it has no knowledge as

to what said other matter consisted of and that at no time has the respondent informed or notified the relator of the specific nature of said other matter. The relator denies the allegations contained in said paragraph "40" of the answer, that, in their entirety, the issues of said publication so presented and considered by the respondent evinced a purpose and intent on the part of the relator to commit the alleged unlawful acts mentioned in paragraph "40" of the answer, and the relator avers that at no time did the relator harbor or carry out such a purpose or intent to commit any or all of said alleged unlawful acts, and that at no time has the relator committed any or all of said alleged unlawful acts. The relator denies the allegations contained in said paragraph "40" of the answer that, for the reasons therein referred to, the said publication was not "a newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class and that the decision of the respondent to that effect is wholly unwarranted and contrary to the facts and to law.

17. As to the allegations contained in paragraph "41" of the answer that a few of the excerpts from said publication referred to in said paragraph "41" appear elsewhere in said answer, the relator states that said excerpts are incomplete and this honorable Court is referred to the several issues of said publication containing said alleged matter for a complete statement thereof.

18. As to the allegation contained in paragraph "42" of the answer that the articles or excerpts mentioned in paragraph "42" of the answer were not the only articles which were considered by the respondent and that the respondent considered other matter contained in various issues of the relator's publication, but not specifically mentioned in the answer in determining the mailable character of the matter sent through the mails in said publication, during the period mentioned in said paragraph "42" of the answer, the relator states that it has no knowledge as to what said other matter consisted of and that at no time has the respondent informed or notified the relator of the specific nature of said other matter. The relator denies the allegations contained in said paragraph "42" of the answer that, in their entirety, the issues of said publication so presented and considered by the respondent evinced a purpose and intent on the part of the relator to commit the alleged unlawful acts mentioned in paragraph "42" of the answer and the relator avers that at no time did the relator harbor or carry out such a purpose or intent

to commit any or all of said alleged unlawful acts, and that at no time has the relator committed any or all of said alleged unlawful acts. The relator denies the allegations contained in said paragraph "42" of the answer that, for reasons therein referred to, the said publication was not "a newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class, during the period referred to in said paragraph "42" of the answer or at any other time, and that the decision of the respondent to that effect is wholly unwarranted and contrary to the facts and to law.

19. As to the allegations contained in paragraph "43" of the answer that the respondent finds that the relator has in no way changed its policy and continues to print and publish the same character of matter to produce the same effect as characterized the publication at the time the second class mailing privilege was withdrawn, the relator states that its policy as to news, editorials and other matter was not fixed or determined by the character of the matter referred to in said paragraph "43" of the answer and that neither since January 9, 1919, nor before that date has the relator published any matter of any kind whatsoever in its publication, The New York Call, with intent to produce any effect forbidden by law and the relator avers that its general policy has not been altered or affected by the wrongful, unwarranted and unlawful act of the respondent in depriving the relator's publication of its second class mailing privilege and in denying the relator's application, filed on January 9, 1919, for the reentry of the relator's newspaper, The New York Call, to the second class mailing privilege. The relator denies the allegation contained in paragraph "43" of the answer that, for the reasons stated in said paragraph, the relator's publication is not "a newspaper or other periodical publication" within the meaning of the laws of the United States governing mailable matter of the second class and denies, also, the allegation contained in said paragraph that the relator or its said publication is not entitled to the second class mailing privilege, and the relator avers that at all of the times since its first publication the relator's said publication, The New York Call, has been and still is a newspaper or other periodical publication within the meaning of the laws of the United States governing mailable matter of the second class, and that the respondent did for a long period of time

recognize that fact and did accept and transmit through the second class mails the relator's said newspaper or publication, and the relator avers that it is entitled to the second class mailing privilege for its said publication.

20. The relator denies the allegation contained in paragraph "45" of the answer that the relator's publication, The New York Call, has for several years been engaged in the revolutionary propaganda mentioned and described in paragraph "45" of the answer in the manner and for the purposes therein described and the relator avers that, at all times, it has been lawfully engaged in the publication of The New York Call, and in a lawful and constitutional propaganda directed toward the achievement of Socialism in the United States of America and throughout the world.

21. The relator denies the allegations contained in paragraph "46" of the answer that the provisions of section 211 of the Criminal Code as amended by Sections 1 and 2 of Title XII of the Espionage Law have been systematically and continually violated by the relator's publication and the relator avers that, at no time, has the relator violated any of the provisions of said laws. The relator avers that the rejection of the relator's application, filed January 9, 1919, for the re-entry of the said New York Call to the second class mailing privilege by the respondent for the reasons stated in said paragraph "46" of the answer was unwarranted and contrary to law. The relator admits that certain of the excerpts from the relator's publication referred to in paragraph "46" of the answer are correct excerpts, but the relator avers that certain of said excerpts are incomplete and the relator, therefore, refers this honorable court to the several issues containing the complete articles from which said excerpts have been taken.

22. As to the allegations contained in paragraph "47" of the answer that the articles therein mentioned were not the only articles considered by the respondent in rejecting the application for readmission of said publication to the second class mailing privilege and that other matter contained in various issues of the said publication, but not specifically mentioned in the answer, were also taken into consideration by the respondent in determining the mailable character of the matter being sent through the mails in said publication, the relator states that at no time has the respondent informed or notified the relator of the nature or description or

title of or dates of publication of the said matter and the relator is without knowledge as to the nature of the said other matter. The relator denies the allegations in said paragraph "47" of the answer that in their entirety the issues so presented and considered evinced a purpose on the part of the relator to commit the alleged unlawful acts mentioned in said paragraph "47" of the answer and the relator avers that it has never harbored or carried out any purpose or intent to commit any or all of said alleged unlawful acts.

23. The relator admits that certain of the excerpts mentioned in paragraph "48" of the answer are correct but incomplete excerpts from articles contained in the relator's publication and the relator respectfully refers this honorable Court to the several issues of the relator's publication containing the complete articles from which said excerpts have been taken.

24. The relator further avers that each and every one of the articles, cartoons and other matter which appeared from time to time in the relator's publication, as alleged in the answer, were lawfully published by the relator and were published without any unlawful purpose or intent and that all of the said articles, cartoons or other matter were published by the relator in its said newspaper in pursuance of the rights and privileges guaranteed by Article I of the articles in addition to and amendment of the Constitution of the United States of America, reading as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Wherefore, your petitioner renews the prayer for relief contained in the relator's petition herein.

Dated, New York, February 13, 1920.

THE WORKINGMEN'S COOPERATIVE PUBLISHING ASSOCIATION

By JULIUS GERBER  
*its Secretary.*

S. JOHN BLOCK,  
SETH SHEPARD,  
*Attorneys for Relator.*

STATE OF NEW YORK, }  
 COUNTY OF NEW YORK, } ss.:  
 City of New York. }

JULIUS GERBER, being first duly sworn, deposes and says that he is the secretary of The Workingmen's Cooperative Publishing Association, the relator in the within action; that The Workingmen's Cooperative Publishing Association is a corporation and that he makes this verification on its behalf and has authority so to do; that he has read the foregoing reply and knows the contents thereof and that the same is true to his own knowledge except as to those matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

JULIUS GERBER.

Subscribed and sworn to before me this  
 13th day of February, 1920.

MAURICE LEFFERT,  
*Notary Public, Bronx County, No. 12.*

Certificate filed in New York County No. 205.



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## **ASSEMBLYMEN'S EXHIBIT 14**

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**MARCH 3, 1920**

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**EXTRACTS FROM "SEA POWER" AND "THE SEVEN SEAS," THE PERIODICALS SUCCESSIVELY PUBLISHED BY THE NAVY LEAGUE IN 1915 AND 1916**

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**[553]**



# ASSEMBLYMEN'S EXHIBIT 14

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MARCH 3, 1920

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**Extracts From "Sea Power" and "The Seven Seas," The  
Periodicals Successively Published By The Navy League  
In 1915 and 1916**

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THE NAVY LEAGUE BELIEVES:

THAT MOST MODERN WARS ARISE LARGELY FROM  
COMMERCIAL RIVALRIES

THAT WE ARE NOW SEIZING THE WORLD'S TRADE

THAT FOLLOWING THE PRESENT WAR WILL COME  
THE MOST DRASTIC COMMERCIAL READJUST-  
MENT AND THE MOST DANGEROUS RIVALRIES  
EVER KNOWN

AND THAT CONSEQUENTLY IT IS OUR DUTY TO  
GUARD OURSELVES AGAINST THESE DANGERS  
WHILE THERE IS YET TIME.

(*Sea Power* for September, 1916, p. 32.)

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Since the days of the wars in the name of the Prince of Peace the battles between nations have ever been waged directly or indirectly on account of commerce. Trade has been the bone of contention; the battlefield the price of commercial achievement. The result has been that countries most zealous in commercial achievements have gone to the market place of the world, armed to the teeth, simply that development of business undertakings might continue uninterruptedly.

Consider the nations now fighting. With each its foreign trade is in proportion to its naval strength. There are those who say that it was Germany's overzeal for commerce, luring that nation beyond the limit of discretion in proportion to its naval strength — trade too far in advance of navy — that brought on the present

war. (From "Fighting and Trading," by Boyd Thomas, *Seven Seas* for June, 1915, p. 21.)

To adopt German standards of militarism would, of course, be impossible among Anglo-Saxons, but this does not minimize the fact that world-empire is the only logical and natural aim of a nation that desires to remain a nation. (From *Seven Seas* for September, 1915, p. 11.)

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*From the Report of the Secretary of the Navy League, May, 1916.*

The League has enrolled 13,000 active members and 210,000 associate members, making a total of 223,000 members.

No fewer than 590,100 pamphlets were carefully distributed during the past twelve months.

Three hundred and forty-nine successful National Defense meetings have been held during the past year. It is safe to say that at least 120,000 people have listened to the talks of our speakers. (*Seven Seas* for May, 1916, p. 40.)

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*From the Speech of Congressman Clyde H. Tavenner, Delivered December 15, 1915.*

It is not a crime but a fact that the munitions patriots founded the Navy League. \* \* \* The armor plate makers are the most patriotic patriots on earth. \* \* \* There are but three firms in the United States who manufacture armor plate—Midvale, Bethlehem and Carnegie companies—each of them is represented in the list of 19 men who according to the official journal of the Navy League were founders of that organization. \* \* \* Is it not rather a peculiar coincidence that among these 19 directors who stepped forth from all the millions of the American citizens to save the Republic by advocating larger appropriations for battleships every armor making concern in the United States should be represented?

\* \* \* \* \* The Navy League upon close examination would appear to be little more than a branch office of the house of J. P. Morgan and Co., and a general sales promotion bureau for the various armor and munition makers and the steel, nickel, copper and zinc interests. At least, they are all represented among the directors, officers, founders or life members of, or contributors to, the Navy League.

*From the speech of President Wilson at St. Louis, September 5, 1919.*

Peace? Why, my fellow citizens, is there any man here, or woman, who does not know that the seed of war in the modern world is industrial and commercial rivalry? This war was a commercial and industrial war. It was not a political war.

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*From a Memorial Presented to Congress by 309 American Professors of Economics and Finance, at the hearings upon the War Revenue Bill of 1917.*

The taxation policy is practicable, because the current income of the people must in any case pay the war expenditures. The choice between bond issues and taxation is merely a choice between whether the government shall take income with a promise to repay those who furnish it or take income without such promise. \* \* \* \* The policy of borrowing within the country itself does not shift any part of the nation's burden of war expenditures from the present to the future. All it does is to make possible a different distribution of the burden among individuals and social classes to permit repayment to certain persons who have contributed income during the war, by other persons after the war. If the people can support the war at all, they can do it on a cash basis. \* \* \* \*

The taxation policy and no other will enable the country to escape the enormous evils of further inflation. The present high level of prices in Europe and America is primarily due to the war bonds and money issued abroad. If the United States joins in a huge scale in this policy of borrowing, prices are bound to become far higher still.

\* \* \* \* Apart from the injustice arising from price inflation, the policy of paying for the war by bond issues gives property a preference over life. It deals unjustly as between citizen and citizen. \* \* \* The citizen who contributes his entire income, beyond what is necessary to subsistence itself, does less than the citizen who contributes himself to the nation. \* \* \* \* If conscription of men is right and just, conscription of income is more so."

*From the President's Message on War Revenue, official Bulletin  
for May 27, 1918, p. 2.*

There is abundant fuel for the light in the records of the treasury with regard to profits of every sort. The profiteering that cannot be got at by the restraints of conscience and love of country can be got at by taxation. There is such profiteering now and the information with regard to it is available and indisputable.

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*From the Federal Trade Commission's Report on Profiteering,  
June 10, 1919.*

The outstanding revelation which accompanies the work of cost finding is the heavy profit made by the low-cost concern under a governmental fixed price for the whole country.

The Commission has reason to know that profiteering exists. Much of it is due to advantages taken of the necessities of the times as evidenced in the war pressure for heavy production. Some of it is attributable to inordinate greed and barefaced fraud.

Payment of extraordinary salaries and in some instances bonuses to executives of corporations have been found by the Commission during its investigations. An illuminating example of high remuneration charged to the expense account is that given by the American Metal Company (Ltd.), of New York, the chief dealings of which are in zinc. Appended are the salaries and tantieme (French—an interest, commission or proportional amount) of some of the chief officials:

B. Hoehschild, chairman of the board of directors.	\$179,663 36
C. M. Loeb, president .....	364,326 73
Otto Sussman, vice-president .....	221,596 04
J. Loeb, vice-president .....	147,930 69
Sol Roos, manager, St. Louis office.....	148,530 69
M. Schott, manager, Denver office.....	136,553 12

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STEEL

In 1917, the steel companies made abnormal profits in the period prior to the government price-fixing policy, and a number have continued to make unusually heavy profits since that policy was inaugurated. \* \* \*

The figures, as to the net income of the Steel Corporation, as shown by the company for the years 1912, 1913, 1914, 1915, 1916 and 1917, before deducting Federal income and excess-profits tax in 1917, follow:

1912 .....	\$77,075,217
1913 .....	105,320,691
1914 .....	46,520,407
1915 .....	97,967,962
1916 .....	294,026,564
1917 .....	478,204,343

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### ZINC

Basing percentage on the capital stock issue of \$35,000,000, the following net earnings and dividends are shown for New Jersey Zinc Co., according to published statistics: 1916, profits, 72.5 per cent, dividends, 76 per cent; 1917, profits, 56 per cent, dividends, 46 per cent.

In fact the whole explanation of the New Jersey Zinc Co.'s large profits lies in its possession of an ore body of unusual richness and purity.

### SULPHUR

Two companies produce all the sulphur in this country, the Freeport Sulphur Co. and the Union Sulphur Co. \* \* \* The manufacturers of sulphuric acid are paying in the neighborhood of \$25 per ton and some as high as \$35 per ton, making margins of over \$15 per ton for sulphur companies. The Freeport company's balance sheets show an operating profit for the 11 months ending October 31, 1917, of \$4,301,310, or 236 per cent on dividend. On November 30, 1916, the company's balance sheet shows dividends declared of \$925,000; on July 31, 1917, \$1,850,000; and October 31, 1917, \$2,600,000. Its surplus increased from \$1,254,000 in November, 1916, to \$2,543,000 in October, 1917.

These companies may be said to have a natural monopoly of sulphur. Since they have placed their operations upon an established basis, they have always made large earnings. They have taken advantage of the existing situation to raise their prices.

## COAL.

Generally speaking, the bituminous coal operators in 1917 had very much larger margins than in previous years. \* \* \* The increase of margins is illustrated by an examination of the returns for 1916 and 1917 of 23 typical bituminous coal companies in the central Pennsylvania field. The average margin of these companies in 1916 was 20 cents per ton, and in 1917 it was 90 cents. \* \* \* In connection with the distribution of coal it may be pointed out that prior to the official regulation of jobbers' and of retailers' margins in August, 1917, there was evidence that many of the margins were unduly high when compared to the pre-war margins.

## MEAT PACKING.

An exposition of the excess profits of four of the big meat packers (Armour, Swift, Morris, Cudahy, omitting Wilson as not comparable) is given in the fact that their aggregate average pre-war profit (1912, 1913, and 1914) was \$19,000,000; that in 1915 they earned \$17,000,000 excess profits over the pre-war period; in 1916, \$36,000,000 more profit than in the pre-war period; and in 1917, \$68,000,000 more profit than in the pre-war period. In the three war years from 1915 to 1917 their total profits have reached the astounding figure of \$140,000,000, of which \$121,000,000 represents excess over their pre-war profits.

These great increases in profits are not due solely to increased volume of business. The sales of these companies in this period increased 150 per cent., much of this increase being due to higher prices rather than to increased volume by weight, but the return of profit increased 400 per cent., or two and one-half times as much as the sales.

The profit taken by Morris & Company for the fiscal year ended November 1, 1917, is equal to a rate of 18.6 per cent. on the net worth of the company (capital and surplus) and 263.7 per cent. on the three millions of capital stock outstanding.

## LEATHER AND LEATHER GOODS

During the year 1917, a large proportion of the tanners in the United States made unusual profits. As the Commission reported in January last, reports of a number of the larger companies show that net profits in 1916 were in several instances two, three, four, or even five times as large as 1915, and the 1915 net profits in

turn showed increases of 30 per cent. to more than 100 per cent. over those of 1914. One striking instance is a company whose net profits were reported as follows:

1914 . . . . .	\$644,390 90
1915 . . . . .	945,051 37
1916 . . . . .	3,576,544 27

The tanners took advantage of the enormous demand for leather and took very high prices. During 1917 the prices of hides, particularly packer hides, were advanced very rapidly, notwithstanding that during the period of advance great supplies of hides were withheld from the public.

### FLOUR

The flour millers have had unusual profits for considerably more than a year. Information collected and verified by the Commission shows that for the four years ending June 30, 1916, a profit of 13½ cents on each barrel of flour and 12 per cent. on the capital investment. These figures came from accounts covering nearly 40 per cent. of the annual output of the whole country but a very much larger part of the flour sold in the regular commercial market. \* \* \*

In the year ending June 30, 1917, these same mills made an average of 52 cents on each barrel of flour sold, and nearly 38 per cent. on their investment. Profits are indefensible, considering that an average of the profit of one mill for six months of the year shows as high as \$2 per barrel.

### CANNED MILK

About three-fourths of the total canned milk (evaporated and condensed) is produced by ten companies. Nearly one-half of the total pack is produced by three companies — Borden's Condensed Milk Co., Helvetia Milk Condensing Co., Carnation Milk Products Co. These three companies occupy a strong position in the trade. The price statistics between 1907 and 1917 show that practically every rise and every decline was inaugurated by either Borden or Helvetia, and the small manufacturers followed. In 1916 and 1917 the war demand caused prices to ascend so rapidly that the problem of declines was obviated until the beginning of 1918.

In 1917, according to the statement of the company, Helvetia made over 20 per cent. on cost and over 65 per cent. on investment. The Borden company made approximately 18 per cent on cost. The Borden company's costs are relatively high.

### PUBLICITY STATEMENT 501

SUBJECT: AWARDS ON CLOTHING AND EQUIPAGE LIST No 2

The War Department authorizes publication of the following statement from the office of the Director of Sales:

The Director of Sales announces that the Surplus Property Division, Office of the Quartermaster-General of the Army, has made the following awards of clothing and equipage, advertised and offered for sale on Clothing and Equipage List No. 2, bids for which were received until 3 o'clock on the afternoon of February 13, 1920:

Item No.	Quantity	Bid	Name and Address
.....	.....	.....	.....
.....	.....	.....	.....
<i>Overshoes, All Rubber, New</i>			
62	56,350 pairs..	\$1.35	Russian Socialist Federal Soviet Republic, New York City.
.....	.....	.....	.....
64	3,500 pairs..	1.35	Russian Socialist Federal Soviet Republic, New York City.
65	1,800 pairs..	1.35	Russian Socialist Federal Soviet Republic, New York City.
66	340 pairs..	1.35	Russian Socialist Federal Soviet Republic, New York City.
67	1,620 pairs..	1.35	Russian Socialist Federal Soviet Republic, New York City.
.....	.....	.....	.....

### *Shoe, Field, Rold. & Renovated*

69	47,600 pairs..	\$2.00	Russian Socialist Federal Soviet Republic, 110 W. 40 St., N. Y. C.
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*Thomas Jefferson on Revolution* (in a letter to Spencer Roane, Sept 6, 1819, referring to certain articles recently published in the "*Enquirer*"; Works, vol. xv, p. 212):

They contain the true principles of the Revolution of 1800; for that was as real a revolution in the principles of our government as that of 1776 was in its form; not effected indeed by the sword, as that, but by the rational and peaceful instrument of reform, the suffrage of the people.

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*William H. Seward on Revolution* (in a speech at Rochester, N. Y., Oct. 25, 1858, referring to the Republican Party):

I know, and you know, that a revolution has begun. I know, and all the world knows, that revolutions never go backward. Twenty Senators and a hundred Representatives proclaim boldly in Congress to-day sentiments and opinions and principles of freedom which hardly so many men, even in this Free State, dared to utter in their own homes twenty years ago. While the Government of the United States, under the conduct of the Democratic Party, has been all the time surrendering one plain and castle after another to slavery, the people of the United States have been no less steadily and perseveringly gathering together the forces with which to recover back again all the fields and all the castles which have been lost, and to confound and overthrow, by one decisive blow, the betrayers of the Constitution and freedom forever.

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*Statement of Charles D. Hillis in the "New York World," February 13, 1920:*

There rests upon every true lover of his country a solemn duty to devote to public affairs such portion of his time, talents and energy as may be required to wrest all branches of the National Government from the withering grasp of a greedy, blundering and incurably incompetent horde of "deserving democrats."

*From the Report of the Joint Committee of Senate and Assembly relative to a certain decision of the Supreme Court of the United States in the case of Dred Scott, April 9, 1857 — Assembly Document No. 201, 80th Session, 1857, Vol. 3*

Your committee have no hesitation in expressing the opinion that this decision is erroneous and ought to be overruled, and they believe it will be overruled as soon as the free states have their just representation on the bench of that court.

The attention of your committee was arrested by a proposition noted by Chief Justice Taney in the opinion he delivered as the organ of a majority of the court. \* \* \* Your committee cannot forbear to characterize this proposition as *inhuman, unchristian, atrocious*,—disgraceful to the judge who uttered it, and to the tribunal which sanctioned it.

The most censurable part of the conduct of these five pro-slavery judges yet remains to be stated. \* \* \* They volunteered, against decorum and precedent, to identify themselves and our great national court, with a sectional party, and to bring down this high tribunal from the lofty place it has hitherto filled in the reverential respect of the nation, to the arena of party and sectional strife. They have destroyed the confidence of the people in the court by stamping upon it a black mark of sectionalism and partisanship. \* \* \*

The influence and power of the court having now been marshalled on the side of pro-slavery propagandism, \* \* \* it no longer accomplishes the purpose of its institution. The safety and peace of the nation require its reorganization. \* \* \* Until this measure is accomplished, it is manifestly the duty of this state to take and maintain a firm stand against the encroachments of slavery, and keep this direful evil out of her borders.

To this end your committee announce and recommend the adoption of the proposition, that slavery shall never pollute the free soil of the Empire State, let the consequences be what they may.

*Free Speech as Practised in War Time (From the Democratic Platform Adopted at Chicago, August 29, 1864)*

Justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to the ultimate convention of the states, or other peaceable

means, to the end that, at the earliest practicable moment, peace may be restored on the basis of the federal union of the states.

That the direct interference of the military authorities of the United States in the recent elections held in Kentucky, Maryland, Missouri, and Delaware was a shameful violation of the Constitution, and a repetition of such acts in the approaching election will be held as revolutionary, and resisted with all the means and power under our control.

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*Representative Morris S. Miller of Utica, New York, on the War of 1812:*

We have been told by honorable gentlemen on the other side of the House that however much we may have been originally opposed to the war, it now becomes our duty to withhold our opposition, and afford all the means in our power to carry it on with the utmost vigor. To this opinion I cannot subscribe; it goes to the destruction of civil liberty, and will not find advocates on this side of the House. This doctrine strikes at the vitals of our republican institutions. It amounts to neither more nor less than this: that a weak and wicked administration, (I speak not particularly of the present men in power), finding the confidence of the people withdrawn, and their power about to pass into other hands, have nothing to do but to declare war, and instantly all opposition must cease; the men who happen to be in place, at the time of the declaration of war, however weak, however incompetent, and however profligate, must be supported at every hazard. To this doctrine I object, as it goes directly to the destruction of civil liberty. The people of this country, I am proud to say it, have an undoubted right to pass upon the conduct of public men, and examine the tendency of public measures in war as well as in peace. ("Annals," 13 Congress, 1st and 2nd Sessions, Volume 1, page 956.)

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*Representative Daniel Sheffey of Virginia, January, 1813:*

It is said that, war having been declared, all considerations as to its policy or justice are out of the question; and it is required of us, as an imperious duty, to unite on the measures which may be proposed by them for its prosecution, and we are promised a

speedy, honorable, and successful issue. Do gentlemen require us to act against our convictions? Do they ask that we should follow, with a reluctant step, in the career which we believe will end in ruin? Or do they suppose that, while on the simplest subject, an honest diversity of sentiment exists, on this complicated and all-important one, our minds are cast into the same mould? Uniformity of action is only desirable where there is uniformity of sentiment; and that, on most subjects, will only exist where the mind is enchained by the fear which despotic power inspires.

But it has been said, that the obedience to the will of the majority is the first principle of representative government, and enjoins what gentlemen require. Yes, sir, obedience to all constitutional acts, is a high and commanding duty on the part of the minority and the people; and all factious opposition is highly criminal. But this does not prevent any one in this House, or in the nation, to use every effort to arrest the progress of evil; or, to effect a real of measures injurious to the public interest. And how can this be done, unless there is full liberty to think, and to speak, and act, as our convictions shall dictate? If this be denied, then there is an end to free government. A majority never can be corrected. They are irresponsible and despotic; they may prepare the yoke when they please, we must submit to it in silence. ("Annals," 12th Congress, 2d Session, Volume 3, page 681.)

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*Daniel Webster, Fourth of July Speech at Portsmouth, N. H.,  
July 4, 1814.*

With respect to the war in which we are now involved, the course which our principles require us to pursue cannot be doubted. It is now the law of the land, and as such we are bound to regard it. Resistance and insurrection form no part of our creed. The disciples of Washington are neither tyrants in power nor rebels out. If we are taxed to carry on this war, we shall disregard certain distinguished examples and shall pay. If our personal services are required, we shall yield them to the precise extent of our constitutional liability. At the same time the world may be assured that we know our rights and shall exercise them. We shall express our opinion on this, as on every measure of the government — I trust without passion, I am certain without fear.

By the exercise of our constitutional right of suffrage, by the peaceable remedy of election, we shall seek to restore wisdom to our councils, and peace to our country.

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*Henry Cabot Lodge. "Life of Webster," American Statesmen Series, page 59:*

Webster took the ground that, as a member of the minority, he could not prevent the taxes nor stop hostilities, but he could protest against the war, its conduct, and its authors, by voting against the taxes.

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*Daniel Webster, January 14, 1814.*

Important as I deem it to discuss, on all proper occasions, the policy of the measures at present pursued, it is still more important to maintain the right of such discussion, in its full and just extent. Sentiments lately sprung up, and now growing fashionable, make it necessary to be explicit on this point. The more I perceive a disposition to check the freedom of inquiry by extravagant and unconstitutional pretenses, the firmer shall be the tone in which I shall exercise it. It is the ancient and undoubted prerogative of this people to canvass public measures and the merits of public men. It is a "homebred right" a fireside privilege. It has ever been enjoyed in every house, cottage, and cabin, in the nation. It is not to be drawn into controversy. It is as undoubted as the right of breathing the air, or walking the earth. Belonging to private life as a right, it belongs to public life as a duty; and it is the last duty which those whose representative I am, shall find me to abandon. Aiming at all times to be courteous and temperate in its use, except when the right itself shall be questioned, I shall then carry it to the extent, I shall then place myself on the extreme boundary of my right, and bid defiance to any arm that would move me from my ground. This high constitutional privilege I shall defend and exercise within this House, and without this House, and in all places: in time of war, in time of peace, and in all times. Living I shall assert it, dying I shall assert it; and, should I leave no other in-

heritance to my children, by the blessing of God I will still leave them the inheritance of free principles, and the example of a manly, independent, and constitutional defence of them. (See "Annals," 13th Congress, *supra*.)

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*Abraham Lincoln as to the Mexican War, January 12, 1848:*

Some, if not all, the gentlemen on the other side of the House, who have addressed the committee within the last two days, have spoken rather complainingly, if I have rightly understood them, of the vote given a week or ten days ago, declaring that the war with Mexico was unnecessarily and unconstitutionally commenced by the President. I admit that such a vote should not be given in mere party wantonness, and that the one given is justly censurable, if it have no other or better foundation. I am one of those who joined in that vote; but I did so under my best impression of the truth of the case. How I got this impression, and how it may possibly be removed, I will now try to show. \* \* \*

Then he (the President) suggests the propriety of wheedling the Mexican people to desert the counsels of their own leaders, and, trust in our protection, to set up a government from which we can secure a satisfactory peace, telling us that 'this may become the only mode of obtaining such a peace.' But soon he falls into doubt of this too, and then drops back on to the already half-abandoned ground of 'more vigorous prosecution.' All this shows that the President is in no wise satisfied with his own positions, First, he takes up one position and in attempting to argue us into it he argues himself out of it; then seizes another, and goes through the same process; and then, confused at being able to think of nothing new, he snatches up the old again, which he has some time before cast off. His mind, tasked beyond its power, is running hither and thither, like some tortured creature on a burning surface, finding no position on which it can settle down and be at ease.

Again, it is a singular omission in this message, that it nowhere intimates when the President expects the war to terminate. At its beginning, General Scott, was, by this same President, driven into disfavor, if not disgrace, for intimating that peace could not be conquered in less than three or four months. But now, at the end of about twenty months, during which our arms have given

us the most splendid successes — every department, and every part, land and water, officers and privates, regulars and volunteers, doing all that men could do, and hundreds of things which it had ever before been thought men could not do; after all this, this same President gives us a long message without showing us that, as to the end, he has himself even an imaginary conception. As I have before said, he knows not where he is. He is a bewildered, confounded, and miserably perplexed man. God grant that he may be able to show there is something about his conscience more painful than all his mental perplexity. (See "Congressional Globe Appendix," 30th Congress, 1st Session, pages 93-95.

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*The President's Message to Congress, May 13, 1846:*

The war has been represented as unjust and unnecessary, and as one of aggression on our part upon a weak and injured enemy. Such erroneous views though entertained by but few have been widely and extensively circulated not only at home, but have been spread throughout Mexico and the whole world. A more effectual means could not have been devised to encourage the enemy to adhere to their cause, and thus given them aid and comfort. (See "Congressional Globe," 29th Congress, Second Session, page 4).

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*Representative Charles H. Hudson of Massachusetts as to President Polk's Message — 1846:*

I look with equal indifference upon the denunciations of the President and upon his flatterers on this floor. I will speak my sentiments here or elsewhere, and I will speak them fully. If I believe the executive is wrong in any of his measures, I will make the declaration. \* \* \* Why, sir, if this doctrine prevails, the more corrupt the Administration is, if it has the power or the daring to involve this nation in a war without cause, the greater is its impunity; for the moment it has succeeded in committing that outrage every mouth must be closed and every one must bow in submission. A doctrine more corrupt was never advanced; a sentiment more dastardly was never advocated in a deliberative assembly; Gentlemen who profess to be peculiar friends of popular rights may advance doctrines of this character; and

they may be in perfect accordance with their views and feelings, and in conformity with their democracy, but I have too much of the spirit which characterized our fathers to submit to dictation from any source whatever, whether it be foreign monarch or an American President. (See "Congressional Globe," appendix, 29th Congress, Second Session, pages 49-49).

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*Joshua A. Giddings of Ohio, December 14, 1846:*

Mr. G. said he was aware that an idea was extensively indulged that whenever our country was engaged in war, be it just or unjust, every true-hearted American was bound to support it with all his power. He denied it utterly. For the present he would content himself with referring to the fact that the whole country were putting to each other the question, For what is our army sent into the territory of a sister republic and we taxed to carry devastation and bloodshed into the heart of a foreign country? ("Congressional Globe," 29th Congress, Second Session, page 34.)

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*John C. Calhoun, February 24, 1847:*

Every Senator knows that I was opposed to the war; but none knows but myself the depth of that opposition. With my conception of its character and its consequences, it was impossible for me to vote for it. (See "Congressional Globe," appendix, 29th Congress, Second Session, page 500.)

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*Charles Sumner Upon the Act Declaring War with Mexico, from an Open Letter to Congressman Wintthrop, October 25, 1846 (Sumner's Works, ed. Lee and Shepard, 1870, p. 321):*

By virtue of this Act, General Taylor has perpetrated the massacre at Monterey. By virtue of this Act, desolation has been carried into a thousand homes, while the uncoffined bodies of sons, brothers and husbands are consigned to premature graves. Lastly, it is by virtue of this Act that the Army of the United States has been converted into a legalized band of brigands.

marauders, and banditti, against the sanctions of civilization, justice, and humanity. American soldiers, who have fallen wretchedly in the streets of a foreign city, in the attack upon a Bishop's palace, in contest with Christian fellow-men defending firesides and altars, may claim the epitaph of Simonides:

"Go, tell the Lacedaemonians that we lie here in obedience to their commands."

It was in obedience to this Act of Congress that they laid down their lives.

*Secondly.* This Act gives the sanction of Congress to an *unjust* war. War is barbarous and brutal; but this is unjust. \* \* \*

*Thirdly.* It declares that war exists "by the act of the Republic of Mexico." This statement of brazen falsehood is inserted in the front of the Act. \* \* \*

*Fourthly.* It provides for the prosecution of the war "to a speedy and successful termination,"—that is, for the speedy and successful prosecution of *unjust* war. Surely no rule can be better founded in morals than that we should seek the establishment of *right*. How, then, can we strive to hasten the triumph of *wrong*? \* \* \*

Such, Sir, is the Act of Congress which received your sanction. \* \* \* It is the most wicked in our history, as it is one of the most wicked in all history. The recording Muse will drop a tear over its turpitude and injustice, while it is gibbeted for the disgust and reprobation of mankind.

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*Charles Sumner at Tremont Temple, Boston, November 5, 1846:*

The Mexican War is an enormity born of slavery. \* \* \* Base in object, atrocious in beginning, immoral in all its influences, vainly prodigal of treasure and life, it is a war of infamy, which must blot the pages of our history.

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*Daniel Webster at Faneuil Hall, November 6, 1846:*

Mr. Chairman, I wish to speak with all soberness in this respect, and I would say nothing here tonight which I would not say in my place in Congress or before the whole world. The ques-

tion now is, For what purposes and to what ends is this present war to be prosecuted? \* \* \* It is time for us to know what are the objects and designs of our Government. \* \* \* We are, in my opinion, in a most unnecessary and therefore a most unjustifiable war.

---

*Votes Against War Credits in German Reichstag During the Present War.*

War Credit Bill passed

August 4, 1914, unanimous.

December 2, 1914, 1 against.

March 31, 1915, 2 against (30 Socialists left the chamber before the vote).

August 20, 1915, 1 against (29 Socialists left the chamber before the vote).

December 21, 1915, 20 against (22 Socialists left the chamber before the vote).

March 25, 1916, 18 against.

(Source: "Vorwartz. Zentralorgan der sozial demokratischen Partsi Deuthschlands.")

June 7, 1916.

October 28, 1916, 15 against.

February 23, 1916, same as last previous.

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*According to the New York Times of December 12, 1917, Herr Strobel, in the Prussian Diet, on December 11, 1917, said:*

"Peace would soon be achieved if Prussianized Germany were so reformed that it could be regarded as belonging to the world's culture. The nation's reactionary Prussian system is the strongest support of our militarism and imperialism, which we have to thank for this hideous war.

"When Heydelbrand, the Conservative leader, asks where Prussia would be with a parliamentary system, the answer must be that a democratic, sane Prussia would never have been rushed into this frightful catastrophe of war. When Heydebrand declares that the majority parties in the Reichstag have taken advantage of the serious position of the country to demand governmental reform, he must be asked who brought the country into this seri-

ous position. It was the thoughtlessness of the Government and of the parties which encouraged the Government to support that unbelievable ultimatum to Serbia. \* \* \*

"I do not demand revolution," cried Strobel, "but I say it will come when conditions favorable to it show themselves. \* \* \* Whether the war shall be carried on and how long is not a matter which can be left to Hindenburg alone. (Storm of protests from Conservatives.) It is a matter for the people and the people's representatives. \* \* \* The German people certainly did not want the war, and the vast majority of the army would vote for peace by agreement and without annexations."

---

*Lloyd George on the Boer War, July 25, 1900.*

*He has led us into two blunders.* The first was the war. But worse than the war is the change that has been effected in the purpose for which we are prosecuting the war. We went into the war for equal rights; we are prosecuting for annexation. \* \* \* You entered into these two republics for philanthropic purposes and remained to commit burglary. \* \* \* A war of annexation, however, against a proud people must be a war of extermination, and that is, unfortunately, what it seems we are now committing ourselves to — burning homesteads and turning men and women out of their homes.

---

*Lord Chatham, November 18, 1777, spoke as follows, on The American Revolution:*

I would sell my shirt off my back to assist in proper measures, properly and wisely conducted, but I would not part with a single shilling to the present ministers. Their plans are founded in destruction and disgrace. It is, my lords, a ruinous and destructive war; it is full of danger; it teems with disgrace and must end in ruin. \* \* \* If I were an American, as I am an Englishman, while a foreign troop was landed in my country I never would lay down my arms! Never! Never! Never!

*The Philosophy of Free Speech From "Liberty," by John Stuart Mill, on the Effect of Suppression of Heretical Opinion:*

The greatest harm done is to those who are not heretics, but whose mental development is cramped and their reason cowed by the fear of heresy. \* \* \* It is not solely or chiefly to form great thinkers that freedom of thinking is required. On the contrary, it is as much and even more indispensable to enable average human beings to attain the mental stature which they are capable of. There have been, and may be again, great individual thinkers in a general atmosphere of mental slavery. But there has never been, nor ever will be in that atmosphere an intellectually active people. Where any people has made a temporary approach to such a character, it has been because the dread of heterodox speculation was for a time suspended. Where there is a tacit convention that principles are not to be disputed; where the discussion of the greatest questions which can occupy humanity is considered to be closed, we cannot hope to find that generally high scale of mental activity which has made some periods of history so remarkable.

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*From the "Nemesis of Docility," by Edmond Holmes — pp. 158-160.*

If, as a soldier, the German citizen is the victim of the iron discipline on which the army has always prided itself, as a civilian he is subjected to a less severe but more insidious pressure. For, whatever harm this pressure may have done to this character he is in part to blame. As I have already pointed out he has allowed the State, through its control of the various moulds and organs of opinion, to suggest to him what he is to think, to believe and to say: and to do this so effectually that he has come at last to regard those thoughts, beliefs and words as his own. In other words, he has allowed the State to take possession of his moral and spiritual springs of action and to usurp the functions of his own higher self.

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*Thomas Jefferson, First Inaugural Address, March 4, 1801:*

All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be right-

ful, must be reasonable; that the minority possesses equal rights, which equal law must protect, and to violate would be oppression.

\* \* \* Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. \* \* \* If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it.

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*Thomas Jefferson, Preamble to the Virginia Toleration Act of 1785. (Hening's Statutes at Large, Ch. 34, Vol. 12):*

To suffer the civil magistrate to intrude his power into the field of opinion, or to restrain the profession or propagation of principles, on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all liberty, because he, being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own.

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*Daniel Webster, at Niblo's Garden, New York, March 15, 1837:*

There are men in all ages who mean to exercise power usefully; but who mean to exercise it. They mean to govern well; but they mean to govern. They promise to be kind masters; but they mean to be masters. They think there need be but little restraint upon themselves. Their notion of the public interest is apt to be quite closely connected with their own exercise of authority. They may not, indeed, always understand their own motives. The love of power may sink too deep in their own hearts even for their own scrutiny, and may pass with themselves for mere patriotism and benevolence.

*Blackstone's Commentaries, ed 1860, Book 4, Ch. 4, p. 60:*

To deny the possibility, nay, actual existence of witchcraft and sorcery, is at once flatly to contradict the revealed will of God in various passages of both the Old and New Testaments, and the thing itself is a truth to which every nation in the world hath in its turn borne testimony, either by example seemingly well tested, or by prohibitory laws which at least supposed the possibility of commerce with evil spirits.

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